1550 a 9

Pacis Conſultum:

A DIRECTORY To the Publike Peace:

Briefly deſcribing,

The Antiquity, Extent, Practice and Juriſdiction

Of ſeveral

Country - Corporation - Courts;

Eſpecially, The Court-Leet.

An Exact and Perfect Method to keep a Court of Survey for the ſetting forth and bounding of Mannors, Lands, and Tenements; with the Articles to be therein given in charge: a work moſt uſeful: of which Subject, never was any thing printed before.

An Abſtract of the Penal Statutes, uſeful for all men to know.

Alſo, Some difficult Queſtions in Law, propoſed and reſolved.

By Judge *Jenkins*.

London, printed by *J. C.* for *H. Fletcher*, at the three gilt-Cups, neer the weſt-end of *Pauls*. 1657.

To the READER.

Reader,

IF any actions of men may be thought praiſe-worthy, certainly it muſt be their endeavours for the publike good; and above all, the preſervation of the common Peace, and propriety of *meum* and *tuum*, one amongſt another; for which end and aim only, the Law was ordained;

and to that very intent and purpose, was this enſuing Treatiſe compoſed; not thereby to gain applauſe, but that others may by it reap profit.

For if the Country-Courts were duely kept as they ought to be, both Court-Leet and Court-Baron in every manner, the common people need not ſo complain for the want of due Adminiſtration of Juſtice, as they do; nor be forced to ſeek ſo far, and trouble the Superior Courts with ſo many petty Actions, wherein the damage can never countervail the charge.

And

And for the Count of Survey, as there is nothing more neceſſary, ſo would it appear in the end, there can be nothing more profitable: if the Lords and Tenants would agree together in their ſeveral Mannors, and cauſe Surveys and Terrars to be made of every one's Eſtate, with his Title; and this keep as a Record amongſt themſelves; thouſands of tedious Suits, touching Titles of Land, to the undoing of many Families, might be avoided, & the right Heir and Owner peaceably enjoy his own, if this courſe were taken but once in an age.

I the rather put down the Abſtract of Penal Statutes, becauſe of the dayly breach of them, to direct thoſe that will, how to puniſh the Offenders: and the voluminous bulk of the Statutes themſelves come not to the view of every one. Gratefully therefore take this ſmall Branch, every one that wiſhes well to the Peace of Engliſh *Sion*; for the Head and Members whereof, remains a daily Orator,

27 *April*, 1657. *Ph: Ag:*

Courteous

Courteous Reader, These books following are printed for, and sold by *Henry Fletcher*, at the three Gilt-Cups in St. *Paul's* Church-yard neer the West-End.

A *Dispensatory; with the whole Body of Physick: wherein is discovered the Natures, Properties, and Vertues of Vegetables, Minerals, and Animals; by the learned* Renodæus, *chief Physitian to the King of* France: *Englished and revised by* Richard Tomlinson *of* London, *Apothecary: in* Fol.

A Martyrology, containing a Collection of all the Persecution that hath befallen the Church of England *since the first Plantation of the Gospel to the end of Queen* Maries *Reign; with the Lives of many eminent Persons: by* Samuel Clark. *Fol.*

An Explication of the 110 Psalm: *wherein the several heads of Christian Religion therein contained, are largely explained and applied: by* Edward Reynolds, D. D. 4°.

A plain and easie Calculation of the Name,

Name, Mark and Number of the Name of the Beast, *by* Nathaniel Stevens, *Minister in* Leicestershire: *a learned work*: *in* 4°.

Paracelsus *his Chymical Transmutation of Metals and Minerals*, *with the Experiments of* Raymund Lully, *containing the right Composition of both Elixirs*: *in* 8°.

Enchiridion *of the Art of Physick*, *by* John Sadler, *D. in Physick*: *in* 8°.

Time well improved, or Meditations on Heavens glory, Earths vanity, and Hells horror, with Prayers for most occasions: and the verses used by the Bell-men of London: *in* 12°.

England's *Balm or Proposals by way of Grievance and Remedy, to the Lord Protector and Parliament, for a Regulation of the Law: by* William Sheppard, *Sergeant at Law*: *in* 8°.

Playes.

The old Law: *by* Middleton, *in* 4°.

Acteon *and* Diana, *acted many times lately at the* Red-Bull, *in* 4°. *both new.*

The

The Antiquity, Extent, and Power OF Court-Leets;

And the form of keeping them.

IF Antiquity may offer it ſelf in plea for Authority, then good cauſe hath this Court to challenge *equality*, if not *pre eminence* above any in the Commonwealth of *England*: for it was eſtabliſhed long before the Conqueſt, and in thoſe days held Plea of all matters in difference either for *meum* and *tuum*, the two greateſt Adverſaries in the world; or *pro placitis Coronæ*, which intends generally the keeping of common peace and welfare in a Nation, which is the *crown* and *dignity* thereof; and is therefore aptly

called *Crimen læsæ Majestatis.*

And so duely and impartially in those days were the Liberties and Laws of this Court observed, that it is yet, and ever will be recorded amongst our *Legenda aurea*; that in those days a childe might travel safely in the Road with a bag of gold, without danger; and then the Ways were more dangerous in regard of woods; being more full of woods, but I think not so well stored with Thieves as now; so that we have destroyed the one, and yet in too much plenty reserve the other.

But to avoid digressions, and prolixity too, we shall proceed to the formality of proceeding in a Court-Leet as now it is: and by the way, observe, that all manner of Crimes, from the highest Treason, to the lowest Trespass, are here enquirable, though not punishable; of which in order you shall have a perfect description.

A Court-Leet is at most kept but twice a year, in some places but once, and in some lazie Lordships not at all, but left as a thing obsolete and useless.

The manner thereof is, first, about fourteen days before the Court is to be kept, for the

the Bayliff to give notice thereof by vertue of a Precept to be by the Steward of the Court *pro tempore existente* to him directed; which usually runs after this form.

The Summons for a Court-Leet.

H.ss. A.B. *Gent. Steward of the* Mannor, *or* Hundred, *or* Leet *aforesaid. To the Bayliff thereof, greeting. I command you, that you summon and warn all the tenants of the said Mannor, as well residents as not residents, and all customary tenants of the Mannor aforesaid, that they be before me at* H. *aforesaid on Thursday the* 26 *day of* March *next coming, to do their Suit unto the View of Frank-pledge, and all things thereunto belonging, &c. Dated, &c.*

Then the Steward ought to enter on the Court-Roll the Style of the Court; which is usually after this manner.

The Entry of a Court-Leet, together with a Court-Baron.

H.ſſ. *The View of Frank-pledge, with the Court-Baron of* C. L. *Eſq; Lord of the ſame, there held the* 20 *day of* March, *&c. By* A.B. *Steward there.*

Then make three Proclamations when you call the Court; and then a Proclamation for Eſſoyns, and profers of Suit and Plea: which if any be, enter them in the Court-Roll, and afterwards proceed to impannel and ſwear the Jury for the Inqueſt. Swear firſt the Fore-man by himſelf, and then the reſt by two or three at a time. The Oath is uſually the ſame in ſubſtance, and not differing much in form from the Oath of the Fore-man to a Grand Inqueſt in Aſſizes and Seſſions, and might be omitted: but leſt the young *Tyroes* might want it, I will inſert the method thereof, thus:

The form of the Oath to the Fore-man of an Inqueſt at a Court-Leet.

You ſhall diligently enquire, and true pre-

preſentment make of all ſuch matters as ſhall be given you in charge: the counſel for the Lord Protector (Commonwealth, King, or any thing, as the caſe alters) *your fellows and your own; you ſhall well and truly keep: you ſhall not conceal any thing, for favour, fear, promiſe or affection; nor preſent any thing for lucre, hatred, or malice; but in all things you ſhall preſent the truth, the whole truth, and nothing but the truth, according to your evidence. So help you God, and by the contents of this Book.*

The Oath of the reſt may follow, in this manner.

All ſuch Oath as A.B. *your Fore-man hath taken on his part, you and every of you ſhall well and truly take, keep, and perform. So help you God.*

This being done, and Proclamation made for every one to keep ſilence and give attention, the Steward is to proceed to give the Charge, which is to conſiſt of theſe particulars.

The Charge of a Court-Leet consists of two parts: one is, things there to be enquired of, but not punishable there; and the other, such offences as are there presentable, and punishable by Fine, Amerciament, *&c.*

Know then, that, to avoid needless circumstances, we shall briefly tell you, that a very proper comparison may be made between the disposure of a Commonwealth and a natural Body, as between the *Macrocosmus* and the *Microcosmus*. The Commonwealth is a Politick Body, consisting of a head and members, the one subservient to the other in his proper office, as the members of the natural body are; which maintains a mutual harmony, and a flourishing condition in the whole. But as the natural body is subject to infirmities, so also is the politick, and must be purged, the one by the Physician, the other by the Magistrate.

As in the natural body some diseases are mortal, striking at the head thereof, some cannot be cured but by Bloud-letting; others are so malignantly Gangrenous, as the whole member must be cut off, to preserve the sound part: so in the body Politick

tick there are ſome mortal diſeaſes, ſtriking at the head, as Treaſons and Petty-treaſons, as ſhall now be declared; ſome deadly wounding the members, as Murders, Manſlaughters, *&c.* ſome gangrening, as Robberies, Felonies, Burglaries, and the like, as follow.

Orderly then, to eſcape confuſion, we ſhall declare what offences are here at this Court-Leet enquirable and preſentable, and not here puniſhable, but are by the Steward to be certified to the next Aſſize or Seſſions of the County; and then what offences are here to be preſented, puniſhed and determined.

The firſt of all preſentable here, are High-treaſons and Petty-treaſons, which are diſeaſes ſtriking at the head, and thereby, if effected, do deſtroy the whole body.

Preſentment therefore is here to be made of all High and Petty-treaſons; which, together with ſome other Crimes incurable but by taking off the peccant member, are to be ſet down in writing indented; one part whereof is to remain with the Steward, and the other with the Jury, and is to be delivered to the Juſtices of Aſſize at the next general Goal-delivery holden for the

County. *Stamford*, *Pl. Coron. lib.* 2. *cap.* 24. and *Lambert* Juſtice of Peace, *lib.* 4. *cap.* 6.

The Jury therefore is to enquire of all High-treaſons; that is, if any do compaſs, imagine, intend, or go about to procure the death of the Lord Protector, and do declare the ſame by word, writing, or any open act; or ſhall go about to make war againſt the ſaid Lord Protector and this Commonwealth; or ſhall adhere to, or hold intelligence with any of the enemies of this Commonwealth: This is High-treaſon.

If any perſon ſhall counterfeit, clip, file, waſh, or otherwiſe counterfeit or falſifie any of the Coyn or Money of this Commonwealth, or the Coyn of any other Nation which is currant in this Commonwealth; this is High-treaſon, and enquirable here.

If any ſhall counterfeit the Privie Seal, Signet, or Signe Manual of the Lord Protector, the great Seal of *England*, or any of the mean Seals of the Common-Pleas, Upper Bench, or Exchequer: Theſe are High-treaſons, and to be enquired of here as Felonies.

Petty-

Petty-treaſons are, if any man kill his Maſter or Miſtreſs, or a woman her huſband; this is to be enquired of here as Felony.

In the next place follows an unnatural wicked Crime to be enquired of, and that is Murder. If any one ſhall out of malice prepenſed or fore-thought kill another; this is wilful Murder.

Man-ſlaughter is alſo a *ſpecies* of Murder, and here to be enquired of: which is, if two perſons fall out ſuddenly, without any prepenſed malice, and fight, and the one kill the other; the Defendant in this caſe ſhall have the book for his life, but loſeth his goods as in the caſe of Murder: ſo ſhall alſo the Defendant loſe his goods, which kills another *ſe defendendo*, or in his own defence: and the ſame Law is, if it be *per infortunium* by miſ-fortune: and this is here to be enquired of, as Bloud-ſhed.

Rape is alſo here to be enquired of; that is, if any man lie with, or carnally know any woman forcibly againſt her will, if ſhe exceed the age of ten years, although ſhe conſent afterwards; this is Felony by the Statute, 22 *Edw.*4. And if there

there be any aiders or assisters therein, they are also adjudged Ravishers, as well as he that committed the act.

Carnally to know any woman-childe under the age of ten years, though she do consent, it is Felony.

But in Rape there must be *Rem in re*; penetration, as well as *emissio seminis*; otherwise it is no Felony.

Adultery is also to be enquired of, as Felony. If any man carnally know another's wife, and it be proved either by confession or two witnesses, it is Felony: but the confession of one party is no evidence against the other, nor a husband against his wife, nor a wife against her husband.

The *horrendum nefandum non nominandum* of man with man, or with beast, is also Felony.

Defacing of a mans Physiognomy, as cutting off his nose, putting out of eyes, or cutting out of a mans tongue, is Felony.

Robbery is also here to be enquired of; that is, if any one take any thing from the person of another violently, though it be but the value of a peny; it is Felony.

If one be pursued by another, and the person in his flight throw his purse or any other

other goods into a bush or other place, and the other comes and takes it; this is Felony, as well as if he took it from his body, because he parts with his goods for fear of his life.

Burning of a house, or barn adjoyning to a house, is also Felony, and here to be enquired of.

Burglaries are also here enquirable; that is, if any person do break any house, Church, wall or gate, in the night-time feloniously, though he carry nothing out of the house, yet this is Felony, because every mans house is his Castle, wherein he ought to repose himself for his safety, and out of which he is not bound to flee.

If any one shall discharge a Pistol or any Gun in at a window, this is Burglary.

Also, robbing of Churches or Chappels, and taking any of the Ornaments or other goods out of the same, this is Felony.

Taking of Doves out of a Dove-house in the night-time feloniously, is Felony, and here to be enquired of.

Also, taking of young Pigeons, of Gos-hawks in their nests; or taking of fish feloniously out of ponds or trunks, is felony; but if out of a River, it is but Trespass.

Felonious

Felonious taking of tame Deer, Swans marked, is also Felony.

Also, if any one receive a Felon, knowing of the Felony he hath done; or if any rescue any one that is taken for Felony, it is Felony, and here to be enquired of.

Accessaries are also here to be enquired of, which are of two sorts, both in Felony and Murder: that is, an Accessary before, and an accessary after the fact. An Accessary before, is, if any one shall procure, command, abet, or consent to another to do a Felony, though he be not present when he doth it, yet he is accessary before the fact.

Accessary after the fact, is, when one consenteth to it afterwards, either by re-receiving of the Felon or his goods, knowing them to be stollen.

Escapes are also here to be enquired of; which are of two sorts, voluntary and negligent. Escape voluntary is, where one taketh another for Felony, and afterwards permits him to go at large whither he will: this is Felony.

A negligent Escape is, when one is arrested for Felony, and afterwards escapes, through the negligence, though against the will of his Goaler or Keeper: and if he be

not

not freſhly purſued and taken, before they loſe the ſight of him; the Goaler ſhall therefore ſuffer a Fine.

Petty Larceny is alſo here to be enquired of; which is the felonious taking of any thing under the value of 20 *d.* as Hens, Geeſe, Piggs; or pilfering things of ſmall value out of windows: theſe things are here to be enquired of. For theſe offences, *The houſe of Correction were more proper for the offender, then the Goal and puniſhment uſed: and ſo likewiſe more ſatisfactorily might all Felonies be expiated by the Felons labour, till reſtoration be made, then by death.*

But while it is as it is, you are to enquire what Goods or Chattels, Lands and Tenements any Felon hath at the time of the Felony committed: for the perſons ſo offending forfeit their goods to the Lord of the Leet, and their lands are to eſcheat to the Lord of whom it is holden.

And thus much concerning ſuch matters and offences as are to be enquired of and preſented at a Court-Leet, and to be certified to the Juſtices of Aſſize. In the next place follows ſuch things as are here to be preſented and puniſhed.

This being a Court of Record, here may be brought Informations upon all penal Statutes, or an Action of Debt, at the election of the Plaintiff or Informer.

Offences of this nature in this Nation do at this time too much abound; partly by the ignorance of such as would prosecute them, but know not the Law, nor the encouragement; and chiefly by the countenance of those that should take cognizance of them, and punish them; but they are more apt to incline to take the Delinquents part then the Prosecutors.

Know therefore, that amongst these Caterpillers of the Commonwealth, the Gamester is the principal verb: by which wicked practice, how many families and persons are utterly ruined! And yet none so much favoured and defended as these.

But to prevent this destructive evil, the Law hath provided, That if any man shall keep, either in his house, yard, or backside, any playing, or suffer any to play at Tables, Cards or Dice, Coyts, Clash, Loggets or Nine-pins, Shove-groat, otherwise called Slide-thrift; or shall keep any Bowling-green or alley, and shall suffer any person to play thereat, or at any other unlawful Game,

Game, either now invented, or to be invented; every ſuch perſon and perſons ſhall forfeit fourty ſhillings a day for every day wherein he kept ſuch Gaming as aforeſaid: And all perſons that ſhall play at any ſuch Games, forfeit every one the ſum of 6 *s.* 8 *d.* for every day that they ſhall play at any ſuch Games as aforeſaid: one moyty of all ſuch Forfeitures ſhall go to the uſe of the Lord Protector, the other moyety to any perſon that will ſue for the ſame (*non conſtat, what he is worth per annum, as ſome pretend*) in any Court or Courts of Record, either by Action of Debt, Bill of Indictment, Plaint, Suit, or Information; wherein no wager of Law, Eſſoyn or other protection is to be allowed the Defendant. Therefore in this Court, an Information, Action of Debt, or Plaint, lies againſt Gaming-houſes, and players thereat, if any ſuch there be within the Juriſdiction of the Leet, (*as there are few places free from them.*) And the Jury is alſo to enquire of theſe offences, and preſent them.

In the next place, (and indeed, he ought to be at the upper end of the board) for he's the ringleader of all wickedneſs) comes Mr. *Alehouſe-keeper*, or Mr. *Victualler*,

as

as he calls himſelf: This is one that is ſeldom guilty of one fault alone; yet he's ſo elevated with the vapours of his Ale, that he'll bid defiance to the Law, and them that proſecute it: and many times the Conſtable, or him that is ſworn to preſent his Abuſes, dares not, becauſe, out of the fluſhes of his eaſie gains, he lends him money.

But the Jury, at every Leet and other Inqueſt, is ſworn to enquire and preſent, if any one ſell Beer or Ale without licenſe. It will not ſerve their turns, to pretend they are Free Cooks, or Free Inholders: for the Statute excuſes none. The puniſhment for an unlicenſed Alehouſe-keeper is at the diſcretion of the Judge or Juſtice, either by the Statute of 5 *Edw.* 6. wherein the penalty is 20 *s.* to the uſe of the poor (deducting a third part to the Informer, if it be by information) of the Pariſh where the offence is committed; or in default of payment thereof, the Ale-Merchant is to be publickly whipt. Another penalty by the Statute of 3 *Car.* is three days Impriſonment without Bayl or Mainprize, and afterwards until he ſhall put in ſufficient ſecurity not to Victual any more without Licenſe.

Alſo,

Alſo, if any Alehouſe-keeper, licenſed or unlicenſed, ſhall ſell Beer or Ale in unſealed Meaſures, as Cans, ſtone-Juggs, black Pots or the like, or in any other unſealed Meaſures, or ſhall ſell leſs then a full Ale-quart of the beſt Ale or Beer for a peny, or take above a peny for a full ſealed quart; he forfeits for every ſuch offence 20 *s.* one third part thereof to the proſecutor, and two parts to the poor of the Pariſh.

Honeſt men might well employ themſelves to puniſh theſe Offenders: and doing it impartially, without reſpect of perſons, may do much good to the Commonwealth, preventing theſe fellows from growing from bad to worſe, by putting their ill-gotten gains to Uſury; maugre their calling of them *Promooting knaves.* And I doubt not but I ſhall have ſuch prayers as the Chaplains of their Calling uſe, for my pains.

If any Alehouſe-keeper ſhall ſuffer any perſons to ſit tipling in his houſe above the ſpace of an hour, he forfeits Ten ſhillings, and the Tiplers Ten groats apiece.

If any Alehouſe-keeper ſuffer any one to be drunk in his houſe, the Drunkard forfeits 5 *s.* the Alehouſe-keeper 10 *s.*

Every Alehouſe-keeper is to keep at leaſt one lodging bed in his houſe, for the entertainment of ſtrangers: that is the intent of Alehouſes.

Neither is the Alehouſe-keeper to take any goods to pawn, of ſtrangers or wayfaring men; nor to entertain any ſuſpicious perſons, but to give notice thereof to the Conſtable or next Juſtice of peace.

Fore-ſtallers, Regrators, and Ingroſſors, are here alſo to be preſented or informed againſt.

If any one ſhall buy corn upon the ground, or other dead victuals, with an intent to ſell it again out of any Fayr or Market; he forfeits the value of the goods ſo bought, and two months impriſonment of his body, without Bayl or Mainprize.

There is alſo an Act of Parliament lately made concerning Corn and Meal That if any perſon ſhall ſell or put to ſale any Meal or Flour, in his houſe or ſhop, or otherwiſe then in the open and publike Market; he forfeits the value of the Meal or Flour ſo ſold: one half of which forfeitures go to the poor of the Pariſh where the offence is committed; the other half to any one that will ſue for the ſame in any Court of Record,

cord, by Information, Indictment, or Action of Debt, *&c.* And moreover, the Mealman is to ſuffer impriſonment of his body the ſpace of one month, without Bayl or Mainprize.

If any one ſhall ſell wine without Licenſe, he forfeits five pounds a day for every ſuch offence; one half to the Protector, the other half to the Proſecutor.

If any one ſhall uſe any Art, Myſtery, or Manual Occupation, having not been brought up Apprentice thereunto by the ſpace of ſeven years, he forfeits fourty ſhillings a month for every month he ſhall ſo uſe it; one half of the Forfeitures to the Protector, the other to the Proſecutor.

If any perſon, of the age of ſixteen years or more, ſhall wilfully abſent himſelf from his Pariſh-Church, and ſhall not repair thereunto or ſom other lawful Pariſh-Church or Chappel, during the ſpace of a month; he forfeits for every month he ſhall ſo refuſe going to Church, and not having a lawful excuſe to the contrary, the ſum of 20 *l.* the Forfeiture to be divided in three equal parts; one third part thereof to go to the Lord Protector, the other third part to the Poor of the Pariſh where the offence is

committed, and the other third part to the Informer; to be recovered in any Court of Record, by any person that will sue for the same, by Action of debt, Indictment, Bill, Plaint, or Information. *I see no reason why Anabaptists, and these called Quakers and Ranters too should be exempted from the penalty of this Statute, any more then Papists.* But further to proceed to our Charge.

The Jury is to enquire also, if all Constables, Headburroughs, Decimers or Tythingmen, and all other Suitors that owe any Suit unto this Court, be present here or no, to do their Suit and Service; and to present the names of all that are absent, or make default.

They are also to enquire if any Customs or Services due unto this Court be concealed or holden back, how or by whom the same are so detained; and in what Bayliffs time the same was; and present the same.

Enquiry is also to be made, if any *Purprestures* be made upon the land, wood, or water, with blocks, stakes, ditches, hedges, or by or with any other thing, manner or way done to the common annoyance of the people; and present it.

Also

Alſo, if any Walls, Houſes, Pales, or Hedges, be made or erected within the Juriſdiction of this Court; to the annoyance of the people: this is to be here preſented.

If any High-ways, Waters, Ditches or Paths be turned aſide out of their ancient courſes; this is to be enquired of, and preſented.

The Jury is alſo to enquire if any encroachments be made on the High-ways, or upon any of the Lords ſoil or common, or one neighbour upon another; and preſent the ſame.

If any Layſtalls be made, or any carrion be caſt in High-ways; this is enquirable.

Common diſturbers of the peace, or ſuch as make Frays in diſturbance of the people or breach of the peace; this is to be preſented.

If there be any common Barretors within the juriſdiction of this Leet, common Scolds, or makers of debate, to the annoyance and diſturbance of their neighbours; this is enquirable.

Enquiry is alſo to be made of all Pound-breakers, ſuch as break the common Pound, to take any Diſtreſs out of the ſame; their names are to be preſented.

Alſo, the Jury is to enquire, if any perſons ſhall make any Outcries againſt the Law, (where no cauſe is) to the diſturbance of the people; and preſent their names.

Alſo, if any Reſcous be made within the juriſdiction of this Court upon the Sheriff, or any of his Bayliffs, or any other Officers, in the execution of their Office; this is to be enquired of, and preſented.

Enquire alſo if any Eves-droppers, that is, ſuch as ſtand under walls, windows, at doors or other places, to hear the diſcourſe of others, and to carry tales thereof to others, thereby to make debate or ſtrife amongſt their neighbours; preſent their names. *All ſuch offenders are to put in good ſecurity for their good behaviour; the offence highly deſerving it.*

Breakers of hedges, and ſuch as walk by night and ſleep by day, are here to be enquired of.

All ſuch as keep houſes of Bawdry, or ill orders in their houſes, to the breach of the peace, or diſturbance of their neighbours, their names are to be preſented.

All common haunters of Taverns or Ale-houſes, having not viſible eſtates ſufficient to live upon, they are here to be enquired

quired of. and preſented, that they may give an account by what means they live. And under this Article, being well and duly examined to the purpoſe, you will finde many Thieves and Gameſters; from which number, my Hoſt himſelf is ſeldom to be excluded.

Alſo, if any go in any meſſage for Thieves, knowing them ro be Thieves, they are to be enquired of.

If any perſon have waterd any Hemp or Flax in any river, running water, ſtream or brook, or common Pond, where cattel uſe to drink; they are to be enquired of: they forfeit for every ſuch offence 20*s*. the one moyty to the party grieved, or any man that will ſue for the ſame in the Court-Leet, by Action of debt, Bill, Plaint, or Information.

But note, that if ſuch an offence be preſented by the Jury in a Court-Leet, the penalty cannot be levied, but the offender is there to be amerced, and the Amerciament eſtreated, and ſo levied: but it may be puniſhed in the Leet, upon the Action or Information of any perſon againſt the offender.

If any perſons have or uſe any falſe, counterfeit, or unſealed Weights, Scales or

Meaſures; or if any uſe double or two ſorts of Weights or Meaſures, that is, one to ſell by, and another greater Weight to buy by, which is a deceit to the people; this is to be enquired of.

The Aſſize of Bread is alſo to be enquired of; and it wants diligent enquiry whether Bakers do make their bread of a due ſize according to the Statute, and the rate and price of corn; and preſent the defaulters.

Alſo, if Butchers, Fiſhmongers, or any other Victuallers, ſell any corrupt, or offer to put to ſale any corrupt or unwholeſome fleſh or fiſh, it is to be enquired of. Alſo, that all perſons that ſell Victuals, ſell the ſame at reaſonable prices, according to the price of the Market adjoyning: and they that ſell otherwiſe, and are thereof convicted, ſhall pay double what they receive, to the party that is damnified: this is therefore to be enquired of.

Enquiry is alſo to be made of Hoſtlers, that they ſell not Hay or Oats but at reaſonable prices; and that they do not take for the buſhel of Oats but an half-peny over the common price in the Market; and that they take nothing for the Litter.

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An Inne-keeper may bake his bread for horſes, in his houſe, in any thorowfare-Town, which is no City where any common Bakers dwell. Provided that he make the ſame according to the prices of grain; otherwiſe it is preſentable and puniſhable in Leet.

If any Millers take exceſſive Toll, they are to be enquired of. A Miller ought to take but the twentieth, or the four and twentieth grain, according to the cuſtom, or the ſtrength of the water.

Alſo, if any Miller change the corn or grain he hath ground, it is here enquirable and puniſhable.

If any Artificers uſe any deceit in their work, to the deceiving of the people, it is here to be enquired of, and their names preſented.

Alſo, if any Conſtable, Ale-taſter, Bayliffs, or any other Officers within the juriſdiction of this Court, have not well and truly done their Offices, or neglected the ſame, it is to be enquired of and preſented.

Whether the Conſtables and Tything-men have done their endeavours to ſee the peace kept, and duly to keep watch and ward as the Law requires; it is to be enquired of here,

here, and presented.

The Jury is also to enquire of Treasure trove; that if, if any Money, or Plate, or other treasure be found, that was hid in the ground, and no man knows the owner, that is, who hid the same; this is the King's, unless the Lord have it by a special Grant or Prescription.

Enquiry is also to be made of Estrays; that is, if any Horse, Piggs, Hoggs or other cattel, or Swans, have come into this Lordship, and have been there a year and a day, and not claimed; then the same is the Lord's by Prescription: but the same ought first to be impounded in a lawful Pound, and proclaimed in three Markets next adjoyning: and if none claim them, then they shall be seized, and ought to be put into some several land, which is open and publike, and not into any covert, or wood, where the owner cannot finde them: for if they be in covert, the property is not changed, though they be there a year and a day.

Waifs are also to be enquired after; that is to say, Whether any Thief upon Hue and Cry, pursuit or otherwise, doth waif his goods, that is, throw away or forsake his goods or any part thereof in his flight, such

goods

goods are called Waifs, and the Lord of the Leet is ſeized thereof: therefore it ought to be enquired of, and preſented here at this Court. Alſo, if any Officer ſeize upon any Thieves goods, though there be no purſuit made; in this caſe, the Lord of the Leet ſhall have theſe goods.

If any flee for Felony or Murder; that is, if any be indicted for Felony or Murder; though he be acquitted, yet if it be found that he fled for the fact, he forfeits his goods and chattels to the King, or to the Lord by Charter: and this is enquirable.

If any horſe or mare be put into any common or waſte ground that is ſcabbed, mangie, or hath any infectious diſeaſe, the owner thereof ſhall forfeit to the Lord of the Leet 10 *s.* this therefore is to be enquired of.

If any perſon be outlawed in Debt, Treſpaſs, or other perſonal Action, his goods are forfeited; and the King ſhall have them, unleſs they be granted unto the Lord by Charter: this is alſo here enquirable.

The Jury are alſo to enquire whether the common Fyne is duly gathered by the Bayliff or Headborough, and paid according to the cuſtom of the Court, and com-

mon

mon uſage thereof.

They are alſo to enquire whether there be within the Leet a Pillory, and Tumbrel, and Stocks, to puniſh offenders according to Law. In every Town where there is a Leet, there ought to be Stocks; and in default thereof, the Town ſhall forfeit 5 *l.*

If any Baker, Butcher, Brewer, Alehouſe-keeper, or the like, do take exceſſive gain for their Victuals, or do promiſe, covenant or conſpire together, not to ſell Victuals but at a certain price, this is to be here enquired of and preſented.

Likewiſe, enquiry is to be made if any Artificers, Workmen or Labourers have promiſed, covenanted, or conſpired together, that they will not make or do their works but at a certain price, and not to finiſh what another hath begun, or that will do but certain work in a day; they are to be preſented, and puniſhed according to the Statute of 24 *H.*8. *cap.* 12.

Alſo, enquiry is to be made if any Tanner have put to ſale any Hide of Ox Bull or Cow, that is gaſhed or cut: he ſhall forfeit for every Hide ſo ſold, 12 *d.* Alſo, no Curryer ought to curry any Leather in a Shoo-makers houſe, nor to curry any Leather

ther that is evil tanned.

Enquiry is to be made in all Leets in Country-towns and Villages, if there be any Crow-nets to deſtroy Crows and Rooks, if they do not deſtroy the Crows neſts when they begin to breed: in default hereof, the Town is to be amerced.

You are alſo to enquire in the Leet, if any perſon hath by any means taken or killed the young Spawn or Fry of any Fiſh, in any ſtream, river, brook, floud-gate, or in the Tayl of any Mill; or whether any perſon hath taken in any of the ſaid places any Salmons or Trouts out of ſeaſon, or any Pikes not being in length ten inches, or any Barbel not being in length twelve inches, or any Salmons not ſixteen inches, or Trouts not eight inches: all ſuch offenders are here to be enquired of, preſented and puniſhed.

The Jury ſhall alſo enquire, if any perſon ſhall either by day or by night break down the head or dam of any Pond, Pool or Moat, wherein the Lord hath Fiſh, with an intent to ſteal or deſtroy the ſaid Fiſh; he ſhall pay to the Lord treble damages, and be impriſoned three months, and be bound to the good behaviour for ſeven years.

Hunters and ſtealers of Deer are here to be

be enquired of and preſented.

No ſtoned horſe, being of the age of two years, ſhall be put into any Common, Foreſt, or Chaſe to paſture, except he be fourteen handfulls high, in pain to forfeit the ſaid horſe. Alſo, the ſaid Commons ought to be driven at *Michaelmaſs*, or within fifteen days after, upon pain of 40*s.* and if vpon the ſame driving there be found any Mare, Foal, or Gelding, not likely to be able to bear foals, or do other profitable ſervice, the ſame ſhall be ſlain and buried. 32 *H.*8. *cap.* 13.

You ſhall alſo enquire whether Hue and Cry, and freſh Suit be duly made and purſued, after Robbers and Felons, according to the Statute of *Weſtm.* 13 *E.*1. *cap.*2. For if a man be robbed in the day-time, and the Thief eſcape, and is not taken within fourty days after the Robbery, for lack of Hue and Cry, the Burrough or Hundred ſhall anſwer to the party for his damages. Alſo, if any perſon be killed in the day-time in a Town, and the Murderer or Manſlayer eſcape, the Townſhip ſhall be fined for his eſcape. 18 *Edw.*2.

If any perſons, to the number of twelve or above, ſhall make any unlawful aſſembly,

bly, to break any Banks, Incloſures, Parks, Barns, Houſes, and ſuch-like, and Proclamations be made by the Sheriff or Juſtice of Peace that they depart, and yet if they remain together an hour after ſuch Proclamation is made, every ſuch attempt is Felony.

Alſo, every Copy-holder, being a Yeoman, Husbandman or Labourer, of the age of 18 years, and under 60, not ſick, nor having a reaſonable excuſe, and being required by the Juſtice, Sheriff *&c.* to apprehend ſuch riotous perſons as aforeſaid, and refuſe, ſhall forfeit his eſtate during life, and his Lord may enter. Alſo, the Farmer being a Yeoman, and refuſing, forfeits to his Landlord, and he may enter.

Alſo, it is Felony, if any perſon, without compulſion, bring, ſend or deliver any Money, Ammmunition or Victuals to any perſon aſſembled in ſuch manner. Alſo, the Juſtice of Peace, or other Officer, may raiſe a power to ſuppreſs them. And if any Officer kill any ſuch Riotous or rebellious perſons, he ſhall go free.

And if any perſon know of any ſuch pretended Rebellion, and do not openly declare the ſame within twenty hours next after

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ter ſuch knowledge, he ſhall be impriſoned three months without Bayl or Mainprize: and alſo, he that hindereth Proclamation that it cannot be made, commits Felony.

If any ſhall trace in the Snow, kill or deſtroy any Hare or Leveret with dogs or otherwiſe, he ſhall forfeit *6 s. 8 d. 13 H. 8. cap.* 11.

If any Jury ſworn and charged to enquire concerning theſe offences, do wilfully conceal the ſame, then the Steward hath authority to impannel and charge another Jury to enquire of ſuch concealment. And if ſuch concealment be found and preſented by the ſaid Jury, then every one of the firſt Jury ſhall forfeit for every concealment of every offence 20 *s.* one moyety thereof to the Lord of the Leet, the other moyety to any one that will ſue for the ſame, by Action of debt, Bill, Plaint, Suit, or Information: wherein no wager of Law, Eſſoyn, or Protection, is to be allowed. Provided the Suit be commenced within ſix months; otherwiſe the offender to be diſcharged thereof. 33 *H.* 8. 16.

Stewards in Leets have power to enquire concerning the erecting of Cottages, and maintaining of Inmates, and to puniſh by Diſtreſs

Diſtreſs all offences committed againſt the Statute touching Inmates and Cottages. 31 *Eliz. cap.* 7.

Stewards in Leets have alſo power to enquire, hear and determine all offences touching the making of Malt. 2 *Ed.*6.16. *Ed.*2. 35. *Eliz* 7.

Stewards in Court-Leets ſhall enquire of, hear and determine all offences committed within their Liberties againſt the Statute for the preſervation of Pheſants and Partridges. 23 *Eliz.*6.23. *Eliz* 10.

Nevertheleſs, with a *ſalvo jure* to all Corporations and Bodies Politick, of all their rights and priviledges, to enquire and puniſh any of the ſaid offences. 1 *Eliz.*17. 35 *Eliz* 7.

Articles to be given in charge to Conſtables and Headboroughs, at Leets and Seſſions both of Cities, Towns and Country-Corporations; moſt neceſſary for the preſervation of Peace, to which our preſent ſcope intends only: and this Direction well followed, will perfectly conduce thereunto, if ſuch a preſervative for the health of men can be attained unto under Heaven.

Therefore I say, These ensuing Articles ought specially to be enquired of, returned and presented by all Constables, Headboroughs, Tythingmen, Decimers, and all sworn Officers, who are enjoyned by Oath to preserve the Peace in their own persons, and in all others as much as in them lies; then do discharge their own duties, let them diligently observe and prosecute what follows, viz.

Inprimis, They are to enquire and return all such persons as shall continue tipling or drinking in any Innes or Alehouses, at any time above the space of an hour, and more especially upon the Sabbath-dayes: and such persons as they shall finde drunk, and also such In-keepers and Alehouse-keepers as shall entertain them.

2. They are also to return the Names, Sirnames, Additions of Names and Qualities of all Popish Recusants, (as well housekeepers, as Lodgers, dwelling or residing in any of their Parishes, Precincts, or Liberties.

3. The Names of such persons as shall prophanely sweare or curse, with the number of

of their Oathes or Curſings immediatelly after the committing of ſuch offence.

4. *Item*, Such as uſe victualling or ſelling Beer or Ale without Licenſe.

5. Such perſons as ſuffer any unlawful Games in their houſes, backſides, or Gardens: and alſo the Names of any that ſhall play at any of the ſaid Games. This is a gangrene & ſpreading leproſie in this Commonwealth, a Vice abhorrent to Chriſtianity; yet (the more's the pity) moſt favoured by them that ſhould ſeek to ſuppreſs it, I mean, in plain Engliſh, the Profeſſors of the Law: inſomuch, that an honeſt cauſe ſhall never have any countenance or defence like one of theſe: and no perſons are ſo much vilified; nay, a Felon ſhall have more favor then a lawful Proſecutor: I mean an Informer againſt theſe Caterpillers: *Sed tu domine uſquequo?* But *nolens, volens*, (yet I hope to ſee the contrary) Mr. *Alehouſe-keeper* will be the beſt man; yet I hope to ſee the tide run the contrary way: if men could but once learn wit enough to know, That *charity begins at home*; The Alehouſe-keeper knows it very well: he'll be ſure to look how the reckoning goes: and wiſe

men will keep reckoning at home, and not let him keep it for them. knowing that two pence a day is above 50 *l. per annum* and out of two pence the Tap-merchant gets a penny. Then judge what he gets by all the Flyes he catches in his Web. Certainly, did people once consider this, the Ale-wife would have few Companions better then her self, yet now she thinks the best scarce good enough for her, though the Causers of it have little thanks for their pains: when she hath gotten their money, it's seldom but they have a scoff or jeer into the bargain; because they should not complain of an unkinde Hostess. And the worst mischief of all is, That men very often insnare themselves to their utter undoing, by the Alehouse-keepers and his Compurgators evesdropping of their discourse. And certainly none but fools will go to game for what is already their own, nor no christian endeavour to come by, or enjoy by playing for what is anothers, And because the Fort and Fountain of Gamesters is the Alehouse, I made this Digression soberly to advise three sorts of men:

The one is in general all honest people to wish

wiſh them (if they be not worſe then Infidels) to avoid the Alehouſe: for under that notion I conclude the gaming houſe too, knowing them to be inſeparable companions. And therefore I ſay again, It were well if it were ordained, That every Alehouſekeeper ſhould have at his door the ſign of the Begger; for from that ſpring, the Alehouſekeeper originally comes when he firſt enters into his order; and before he leaves, he makes all Beggers that frequent his company: therefore ſuch a ſign might give warning to others to let him alone, and keep his beggerly condition to himſelf, which might enforce him to work for his living as honeſt men do, and not grow ſo fat by the ſweat of other mens brows.

The ſecond ſort of people I would ſpeak to, in my intended hopeful Inſtrument of Reformation, is the Profeſſors and Practicers of the Law: theſe ſhould ſeek to puniſh vice rather then promote it; *Ergo*, I would deſire them to honor their profeſſion ſo far as not ſo earneſtly defend, as they too much do, the Deſtroyers of the publick Good; that is, the Gameſters and Alehouſekeepers, and all breakers of penal Statutes. Well,

Semel dictum ſapienti ſat eſt, I'll ſay no more, for I expect little thanks for this: *R. T.* Rhadamanthus.

The third ſort I would adviſe is, ſuch men as take upon them, or will undertake the proſecution of all penal Laws and Statutes againſt the contemners and breakers thereof; uſually called Promoters and Informers, *&c.* Be ſure, let me adviſe you to ſhoot home where you begin; let no fair tongues enſnare you; promiſes, nor hopes of reward entice you, to be caught in their nets; when, for the lucre of a ſmall Fee, (which they all generally ſeek to enſnare you with) you releaſe them, and undo your ſelves. But, I ſay, draw your Arrow to the head, and he will flie to the mark: if you proſecute the Law to the uemoſt without favor or affection, you do that the Law intends you for, and ſhall bring profit and tranquility to the Commonwealth in general, and to your ſelves, as good members thereof in particular, maugre all opponents; doubt not but our Law-makers and keepers, whom God hath now raiſed to protect us, will defend you in the execution of Juſtice: and the better to direct you, I will immediately lay down

down, and declare to you the heads of the penal ſtatutes, as ſoon as I have done with my enſuing Articles.

6. Conſtables and Headboroughs are alſo to preſent ſuch perſons as do refuſe or neglect to do their duty of watching or warding.

7. *Item*, Such perſons as divide their Houſes into ſeveral Tenements; and ſuch as do entertain Inmates, who may be an annoyance to their Neighbors, or likely to bring charges upon the Pariſh.

8. *Item*, The defaults of petty Conſtables, Headboroughs, and Tythingmen (theſe are the ſame in Nature, though different in Name) for not cauſing Rogues, Vagabonds, and Beggers, to be duly apprehended, puniſhed and paſſed, according to the Statute.

9. *Item*, All maſterleſs men and women living at their own hands, ſuch as are idle and will not labor, and can give no good account how they get their living; all ſuſpicious perſons, Whores, night-walkers and mothers of Baſtards, which may be chargeable to the Pariſh.

10. *Item*, The Names of ſuch perſons as refuſe to take to Apprentice, poor Pa-

riſh-children, to Husbandry, and other Callings according to Law.

11. *Item*, All ſuch as neglect to make due rates and collections for the relief of the poor in every Pariſh, and that cannot give a juſt account of the imployment of the rent, and ſtock of the poor.

12. *Item*, The defects of the Highways and Bridges, with the names of ſuch as ſhould repair them, and have neglected or refuſed to do their duty herein.

13. *Item*, Such Scavengers as neglect to do their Office, in cauſing the Streets to be kept clean within their Liberties, and the names of ſuch perſons as commit common annoyances, by laying of dung, ſoyl or aſhes in the Street.

14. *Item*, The names of ſuch perſons as neglect or refuſe to pave the Streets before their houſes, where the ſaid Streets have uſually been paved.

15. Such perſons as keep any Hogs in the Streets or elſewhere to the annoyance of the people. Theſe three laſt are onely proper for Towns and Cities.

16. All ſuch Bakers as put light bread to ſale, and the weight thereof; and ſuch Brewers as ſell Beer or Ale to unlicenſed Ale-

Alehouſe-keepers, and ſuch as ingroſs any Corn, Grain, or any dead Victuals.

A Compendium of all ſuch penal Statutes as concern foreſtalling, ingroſſing, regrating Millers, Bakers, Brewers, Clothworkers, Alehouſe-keepers Gamers; Wine without License, Recuſants, Mealmen, Uſury and Extortion ſhould here immediately follow; but in regard we finde them too prolixious to be annexed to the Court-Leet, in regard it makes too long a paſſage to the Court-Baron; and we not being willing to omit any part thereof, conducible to the common good, ſeeing we intend this Treatiſe chiefly for the inſtruction of the ignorant in this moſt needful knowledge, as well for the plain Country-man as for the benefit of the ſtudious Tyro *in the Law-Practiſe. We ſhall reſerve the addition of the penal Statutes, as an Appendix in the cloſe of the Book, and proceed to the Court-Baron.*

Now becauſe the Court-Baron is always an adjacent Neighbor, if not a Companion with the Court-Leet, I ſhall ſuc-

ſucceſſively give you the form and and matters of charge to be enquired and puniſhed there.

The Court-Baron holds Plea of all perſonal actions and treſpaſſes made within the Mannor where the Tenants are and ought to have Juſtice at home, and not to be at the charge of a Sute at *Weſtminſter*, for every petty action: where ſometimes the damage is not three pence, 20 *l.* is ſpent in deciding the Controverſie.

This Court ought to be kept every three weeks; and to that intent, the Lord receives Rents and Services of his Tenants to do them Juſtice: and ſome hold their Lords onely, by this ſervice of doing Sute of Court, and theſe Suiters are the Judges of the Court, though I believe few Lords know a reaſon why they receive their Quit-Rents; and few Tenants wherefore they pay it: by which means, the due keeping of theſe Courts, are in many, nay, moſt places neglected, to the great injury of the people. But a remedy they may have againſt the Lord for the non-uſage, or abuſe thereof, which ſhall here following be declared: but to proceed. Firſt, enter the

Stile

Stile of the Court, which is after this manner, *Holſhot, ſs.* The Court-Baron of *J. W.* held there on *Friday* the 24 of *March* in the yeer of our Lord, 1656.

When the Stile of the Court is entred, call the Suiters and Tenants, entring their appearences and defaults; then make Proclamation, *That if any one will be eſſoyned or enter any plaint they may come in and be heard.*

After the Eſſoyns, and Plaints and Pleas be entred, then impanel the Jury, and ſwear them.

The Oath is after the ſame manner as the Leet, only leaving out theſe words, *The Council for the Protector*, &c.

Then after ſilence made, proceed to give in charge theſe Articles enſuing:

Firſt, The Jury is to enquire of the Suiters which owe any Sute to this Court, whether they do attend the Court or no, and preſent the Defaulters.

Secondly, Enquire whether any Tenant be dead ſince the laſt Court, or before, whoſe death, is not yet preſented; and preſent the ſame: and what Lands and Tenements he held of his Mannor at the time of his death, and by what ſervice;

and

and who is next Heir to the ſaid Inheritance.

If it be Soeage-Tenure, the Lord ſhall have his Fealty & one yeers Rent for a relief over and above his yeerly Rent: (I do not mean the Rent to the value or profits of the Land, though many Lords of Copy-holders, have much miſtaken themſelvs of late, in this caſe, to the Tenants undoing, when the Fine hath been ſtretcht by the cloakbag-ſtrings of the Lords conſcience:) and for his relief, the Lord may diſtrain immediately after the death of this Tenant.

You ſhall enquire whether any Free-holder hath aliened, or ſold away his Free-hold, or any parcel thereof, and preſent it: for he which bought the Land, before he enter, ought to give notice thereof to the Lord; and if he bought but a parcel, the Rent ought to be apportioned accordingly, between both parties, according to the value of the Lands ſold.

Fourthly, Enquire whether any one man hath two ſeveral parcels of Land, holden by ſeveral Titles, and dieth ſeized of the ſame: the Lord ſhall have two Herriots by his death.

You ſhall alſo enquire whether any Copy-

Copy-holder dieth, ſeized of any Lands, ſo holden, and preſent it. Alſo, whether any Copy-holder hath made any Leaſe of his Copy-hold, or otherwiſe alened or ſold the ſame, without ſurrender, and preſent it; for it's a forfeiture of his Copy-hold.

Enquire alſo whether any Copy-holder hath made any ſurrender of his Copy-hold, or any part thereof, ſince the laſt Court-day, or before, and preſent it; and into whoſe hands it was made, and to whoſe uſe: for at every death, or other alienation, the Lord is to have a Fyne (*were it not for this, few Lords would keep any Court at all, though they ought to do it, to do juſtice to their Tenants*;) and the party into whoſe hands the ſurrender is made, ought at the next Court, to preſent the ſame; and to certifie the ſurrender into Court to the uſe of the alien, according to the truſt repoſed in him, on pain of forfeiture of his Copy-hold: and the party that receiveth the ſurrender is not inveſted in any right in the eſtate by the ſurrender, unleſs he be admitted Tenant in Court.

Enquire alſo, if any Tenant of this Manor

nor, have given any of their Lands into Mortmayn, and preſent it: if any man give or ſell any Lands to any houſe of Religion, or to any other which be corporate by the King's Grant; or if any one make any Feofment upon truſt to the uſe of any Religious houſe, or to the uſe of any Fraternity or Corporation: this is Mortmain.

You ſhall alſo enquire whether any Tenant, for term of life or yeers, or any Copy-holder of this Lordſhip, hath made any waſte, or ſuffered any waſte to be done upon their Lands and Tenements, and preſent it.

Waſte is when any Tenant for term of life or yeers, or any Copy-holder pulleth down any houſe, or cutteth down timber-trees, or ſuffereth any of his Copy-hold-Tenements to decay or fall, or if any of the Tenants plow up any medow-ground, or if they ſuffer any wall or pale which was covered, to be uncovered by reaſon whereof, the ſame wall or pale doth fall: or if any Tenant dig coals, chalk, ſand, or make any Myne in his Ground, it is commitment of waſte.

But if a Tenant fell Timber to repair Houſes in decay upon his Copy-hold, and therewith doth repair them, or therewith build

build a new houſe, or any new building: this is not waſte. But if he cut down and ſell any ſuch Timber: this is waſte. Alſo Copy-holders may cut down Wood to burn upon their Tenements, or to make Reparations without waſte.

Enquire alſo, whether any Tenant died, ſeized of any Lands holden of this Manor having no Heir at the time of his death, his Lands ſhall eſcheat to the Lord.

None ſhall inherit Lands in Fee-ſimple unleſs he be Heir of the whole blood; and underſtand, that a Baſtard can never be be Heir unto any man; neither can he ever have Heir, but his children of his own body lawfully begotten: therefore, if any Baſtard die without iſſue, or any other Tenant die, ſeized without Heirs, preſent it.

Alſo, if any Tenant ſeized of any Lands or Tenements, was ejected therefrom by one that had no rightful Title thereunto, and after dies without Heir, the Lord ſhall have his eſcheat, as well as if the Tenant had died ſeized: *ergo*, enquire thereof, and preſent it.

Enquire alſo, if any Tenant of this Manor hath been attained for any Treaſon,

ſon, Felony, or Murder, for which he had judgement, although he were afterward delivered, or were burned in the hand: the Lord hath his Lands by eſcheat: or if any one hath abjured the Land, or be outlawed for any Treaſon, Felony, or Murder, preſent it: for the Lord ſhall have his Land by eſcheat.

You are alſo to enquire, if there be any Rents, Cuſtoms, or Services withdrawn from the Lordſhip which are due, and of right ought to be done thereunto, and what Rights, Cuſtomes, and Services they are by whom withdrawn, and where the Land lies out of which they be due, and who holds the ſame, and preſent it.

Enquire alſo, whether any waif or Stray was or is within this Lordſhip, and whether the Lord be anſwered of the ſame; and if not, preſent by whom they are detained; and if any Herriot be conveyed away or concealed, preſent it, and by whom.

And here it will not be any digreſſion to tell you what a Waif and Stray is.

A Waif is if a Thief being purſued, or other-

otherwiſe to eaſe himſelf of his burden, doth leave and forſake his goods, which he hath ſtollen, or any part of them; ſuch Goods are called Waifs: and the chief Lord ſhall have the Goods ſo waived, unleſs the Owner of them, do make freſh ſuit after the Thief, and attach him for ſtealing the ſaid Goods; in ſuch caſe he ſhall have his Goods again, though they be waived; but then he muſt ſue an appeal, or elſe procure the Thief to be convicted at his Sute, 21 *H.*8. *cap.*12.

An Eſtray is, if any Beaſt be found in the Lordſhip, and no man know the Owner thereof, they ſhall be ſeized to the uſe of the King, unleſs the Lord have them by Grant or Preſcription, if the Owner do not claim the ſame within a year and a day, after the Lord hath cauſed Proclamation to be made in the next Markets, and in the Church, according to the Statute.

Alſo enquire, whether any perſon hath made any Reſcous againſt the Lord or his Officers within the Manor, and preſent it: That if the Lord come to diſtrain for his Rent, and the Tenant reſiſt him, that he cannot diſtrain: this is a reſcue: or, if Beaſts diſtrained run into the houſe of the

Owner, and the Diſtrainer prays them to be delivered to him, and the poſſeſſors will not deliver them, it is a Reſcue.

You are likewiſe to enquire of, and preſent all pound-breaches; whether any perſon hath broken the Lord's Pound, that is, to have taken away any diſtreſs put therein: if the Lord do diſtrain for Rent or ſervice behinde, he may impound the diſtreſs either in a common Pound or in his own Ground, if he will, or in his Neighbors Ground by the Licenſe of his Neighbor: and any place in which the Lord doth impound, is, the Lord's Pound: but if any other perſon do impound any Cattle in his own Pound or his Neighbors, he ought to give notice thereof to the other party, that is, to the Owner of them, that he may give them meat if he will; and then if the Beaſt die for want of food, he that was diſtrained ſhall be at the loſs, and he that did diſtrain, may diſtrain again for the ſame Rent or Duty.

Enquire alſo, if any Inhabitant have overcharged the Common, or High-ways, or common Fields, by putting therein more Cattel then they ought to keep, or before the days agreed upon, and preſent it;

it; for the Lord may diſtrain the Surpluſſage, Damage Feiſant.

There may alſo be made certain Orders by the Inhabitants, one among another, which none may break under ſuch penalties as they agree upon between themſelves.

Alſo you ſhall enquire, whether any perſons have digged any Holes or Pits in the High-wayes; or whether any uſe commonly to break Hedges, or ſuffer any Hoggs to go unringed or unyoked, to the annoyance of their Neighbors, and preſent the ſame.

Enquire likewiſe, whether any perſon hath ſtopped any Water-courſe, Way, Ditch, Path or Stile, or turned any of them out of their way, and preſent it.

Alſo, whether any Tenant hath made any incroachment upon any of the Lord's Land, Meadow, Paſture, Wood, Heath, or other vacant Ground, without the Lord's leave; or hath ſet his Hedge or Pale, beyond his due bounds, and preſent the ſame.

Alſo enquire, whether any perſon hath plowed up, or removed any Meerbanks,

Banks, or removed any Bounds or Limits between one piece of Land and another, and preſent it.

Alſo, you ſhall enquire whether any perſon doth detain or keep away, or detain any of the Lords Court-Rolls or Evidences, and preſent the ſame.

Alſo, if any perſon have Hunted, Hawked, Fiſhed or Fowled in the Lord's VVarren, and preſent it.

Alſo, you ſhall enquire, if any perſons have taken any Egges of the Lord's, Swans out of their Neſts, and preſent their names.

Enquire alſo if any treſpaſs be done in any of the Lord's Liberties, either in his Corn, Graſs, Meadows, Paſture, VVoods, VVaters, Ponds, or Hedges; or take, or deſtroy any Aiery of Hawks, and preſent the ſame.

Enquire alſo, if any Land be incloſed that ought to lie open, without the licenſe of the Lord and other Freeholders, and preſent the ſame, that the Tenants of the Manor may not loſe their Common thereof.

Enquire alſo, whether any Tenant for life or term of yeers, hath let any greater

or

or longer eſtate in his Lands or Tenements then he hath therein, it is a forfeiture of their Eſtates.

Enquire laſtly, if all the Defaults and Plaints preſented at the laſt Court, be ſufficiently and duly amended: and whether all the Orders and Rules made heretofore concerning this Mannor, be obſerved and kept, and preſent it; and if you know any thing more fitting to be, or that ought to be preſented for the Lords profit, or your own common good, diligently enquire thereof, as you are in conſcience bound, according to the Oaths you have taken, and are obliged to both by God and man: ſtudying as much as in you lies, the general good and welfare one of another: and to that end, of all matters given you in charge, and here to be enquired of, make a true preſentment, diſtinctly and plainly, without malice, in ſpeaking leſs then is true, or favour in concealing any one that is culpable, againſt the truth.

The form and manner of proceeding in perſonal Actions both in the Court-Leet, Court-Baron, (& alſo the hundred Courts, which is alſo a Court held generally every three weeks to hold Plea in perſonal Acti-

ons, where the debt or damages exceed not 40 *s.* by the Sheriff in many places, or by his Steward, if the King be Lord thereof; or if it be a particular Lord, by his Steward for the whole Hundred:) I say, the Proceſs of theſe Courts, is Summons, Attachment and Diſtreſs, to be directed by Precept from the Steward of the Court to the Bayliff of the ſame, where it lies in the choice of the Plaintiff either to ſummon the Defendant, or attach his Goods; which he muſt put in bayl unto, to appear at the next Court to anſwer the Defendant, which is uſual in treſpaſs: but in debt, onely a Summons without bayl; a laudable way of granting out Proceſs in all Courts of Judicature, coming neereſt the purity of the original and ancient practice of the Laws of this Nation.

And if the Original in the Court of common Pleas were onely uſed, and the *Capias* taken away, or rather indeed a *Sub-pœna* only in all Courts, & an Attachment to follow in caſe of Contempt, how much vexatious charge and trouble would the people of the Nation be freed from, and their Eſtates and perſons ſaved from the devouring clutches of thoſe ravenous VVolves, the Catch-

Catch-poles and Sergeants, to which honeſt men are often enforced ſubjects; when perhaps, nay, moſt often, leſs charge would end the difference then theſe men expoſe both parties unto: and for which, both Plaintiff and Defendant ſit down loſers.

But becauſe it is our earneſt deſire to purſue peace as much as is poſſible with all men, we ſhall here lay down a method of keeping a Court of Survey; which if all Lords and Tenants would, as if they will with a little charge they may, joyn together, and perfectly obſerve, the Right and Propriety of every man might be known and regiſtred amongſt them, and thereby many tedious, conſuming, troubleſome Title-Sutes at Law, avoided: for by this means, every one might know his own; and he that will not therewith be content, deſerves nothing.

The manner, form, and method of keeping a Court of Survey for the ſurveying, ſetting forth, butting, deſcribing and bounding of any Mannor or Town; with the ſeveral Tenures belonging to the ſame. With the form of making a Terrar or Field-book, and the Articles to be given in charge to the Jury, in a Court of Survey.

Articles to be enquired of and given in charge in a Court of Survey holden for the Mannor of A. in the Pariſh of H. in the County of N. the 8 *day of* May, 1656.

IN*primis*, VVho have, or are ſuſpected to have, or keeep back any of the Lord's Evidences, Court-Rolls, Rentals, Books of Survey, Terrars or VVritings whatſoever, concerning the ſaid Mannor, and who have been Stewards of the ſaid Mannor within the time of your remembrance. Note,

Note, if there be a Survey holden for two Mannors or more, at one time; then ſay, in ſtead of *Mannor*, *Mannors*. *And the ſaid Mannors, or either of them.*

2. *Item*, That you inform what Limits and Bounds belong to the ſaid Mannors; and what Lords are bounding or bordering thereupon, or whether they do chalenge, intrude or encroach upon the Lands of the Lords of the ſaid Mannors.

3. *Item*, That you ſet forth the Free-hold Lands and Tenements, within the ſaid Mannors from the Copy-hold, cuſtomary and demeaſne Lands of the ſaid Mannors, and either of them, or any other Mannor, and who are the Free-hold Tenants or Occupiers thereof and what are their names, and what Free-hold Rent do they ſeverally pay to the Lord of the ſaid Mannors for the ſame.

4. *Item*, what alienations, tranſmutations or alterations have been made of any Free-hold Lands within or belonging to the ſaid Mannors or either of them, and what is due to the Lord upon any ſuch alienation, tranſmutation or alteration.

5. *I-*

5. *Item*, What Houſes or Tenements of Freehold are now ſtanding, or have been decayed within the ſaid Manners: by whom and when were they ſo decayed, what Laws do or heretofore did belong to every ſuch Houſe or Tenement, and what Lands have been ſold from the ſaid Houſes or Tenements, and to whom.

6. *Item*, What Tenements or Cottages are lately built within the ſaid Manners, that are holden at will, or ſufferance, or by Copy of Court-Roll of the ſaid Manners or either of them, or any other Manners, and who be the Owners or Occupiers thereof, and what Rents and Services do they yield and pay for the ſame, and what Laws do belong to every ſuch Tenement and Cottage, and how long ſince have any ſuch Tenements or Cottages been built, and what Commonage do they challenge for the ſame, and by what right, and what is the name of ſuch Common or Commons they challenge Commonage in.

7. *Item*, How many Copy-hold or Cuſtomary Tenants, are within or belonging to the ſaid Mannors, and either of them, and what be their ſeveral names, and what

Meſſuages

Meſſuages, Lands, Tenements, or Hereditaments, hath every ſuch Copy-holder or Cuſtomary Tenant, what are their ſeveral quantities and yeerly values, where do they lie, and how they are abuttalled, and by what Rents and Services doth every ſuch Copy-holder hold the ſame.

8. *Item*, Whether any of the Copy-holders within the ſaid Mannors have exchanged, bargained or ſold any of their Copy-hold Lands or Tenements to any Free-holder, and what are ſuch Lands and Tenements ſo bargained, exchanged and ſold, yeerly worth, and where do they lie.

9. *Item*, Whether any Copy-hold or Cuſtomary Tenant of the ſaid Mannors or either of them, hath let or ſet for any time or term of years, his Copy-hold, or Cuſtomary Lands or Tenements, or any part thereof, without the Lord's licenſe, and whether any enjoy any Copy-hold, or Cuſtomary Lands, not having a Copy or Grant thereof immediately from the Lord of the ſaid Mannors, and what be their names, and the yeerly value thereof.

10. *Item*, What Lands, Tenements, Rents, Services or Hereditaments, within, or

or belonging to the ſaid Mannors, are withholden, concealed, or ſubſtracted from the Lord of the ſaid Mannors, by whom, and when, *&c.*

11. *Item*, VVhat Heath-Grounds, Sheep-courſes or Sheep-walks, are within or belonging to the ſaid Mannors, how are they ſcituated, ſet forth, or bounded; and how many Acres, do every ſuch Heath, Sheep-courſe or Sheep-walk contain, by meaſure or eſtimation; and how many Sheep will the ſame yeerly maintain and keep, and what other Priviledges or Cuſtomary Feede do belong to the ſaid Sheeps-courſe or Sheeps-walk; and where do the ſame lie; and at what time or times in the yeer is the ſaid Priviledge and Feede to be taken, and what is the yeerly value of the ſaid Sheep-walk or Sheeps-courſe.

12. *Item*, VVhether any can or do juſtly claim or hold any Land that lies within the ſaid Heath-Grounds, Sheeps-courſe or Sheeps-walks, and by what right do they hold or claim the ſame; and how much Land have every ſuch Land-holder, and whether have they not other Lands of the Lord of the ſaid Mannors in Leiue or

ex-

exchange thereof, and where do the ſaid exchanged Lands ſeverally lie: and how are they abuttalled and bounded, and what be the ſeveral Names of the Occupiers of ſuch Lands, and their ſeveral quantities.

13. *Item*, VVhat Commons, commonable Grounds, waſte and vacant Grounds, are within and belonging to the ſame Mannors, and what be their ſeveral names: how are they ſcituated, meered, ſet forth or bounded; and how many Acres do every ſuch Common, commonable Grounds, waſte and vacant Grounds contain by eſtimation, and who can and do juſtly claim or pretend to have any Common of Feede in the ſaid commonable Grounds, waſte and vacant Grounds, and what be their ſeveral names.

14. *Item*, what Incloſures and Incroachments have been made at any time heretofore, and now being in, upon, or out of the ſaid Commons, commonable Grounds, waſte and vacant Grounds, by whom, where, and when were they made, and what quantity, and by what warrant or right they did, or do hold the ſame.

15. *Item*, what plantings or Trees is now,

now, and have been heretofore ſet or growing upon any of the Commons belonging to the ſaid Mannors or either of them, by whom they have been ſo ſet or planted, and what be their names that challenge the ſame as belonging to their Houſes or Tenements, and what be the names of ſuch Houſes or Tenements, and how far off are the ſaid Plantings, or Trees planted or growing from the ſaid Houſes or Tenements, and what number of Plantings or Trees do they ſeverally challenge to belong to their ſaid Houſes or Tenements, and by what right; and who have lopped, felled, ſold or converted to their own uſe any ſuch Plantings or Trees, and for how much do they or any of them hold the ſame.

16. *Item*, what demeaſne Lands are belonging to the ſaid Mannors and either of them, and where do they ſeverally lie, and how are they abuttalled, and what be their ſeveral quantities and qualities, and their yeerly value; and what be the names of them that have them in Farm, exchange or Occupation; and for what Rent and term, or for what cauſe do they ſeverally hold the ſame.

17. *Item*, what Liberties, Freedoms, Franchiſes,

Franchiſes, and other preheminencies and royalties do belong or appertain to the ſaid Mannors, what are the ſame, and what profit may be yeerly, or otherwiſe made or raiſed by the Lord thereby.

18. Laſtly, to enquire and certifie who ſhall neglect or refuſe to bring in and ſhew forth their Deeds or their Evidences of all their Free-hold Lands and Tenements within the ſaid Mannor, together with all their Copies or Court-Rolls of all ſuch Lands as they ſeverally hold by Copy of Court-Roll of the Mannors aforeſaid, for the better ſetting forth and diſtinguiſhing of the ſaid Lands accordingly, whereby the Survey of the ſaid Mannors may be made the more perfect.

The manner of making the Terrar or Field-book, may be thus:

A general Survey and Field-book taken at H. in the County of S. holden for the Mannors of G. and H. by R. T. Steward and Surveyor of the ſame: the 10 *day of M.* 1656. *wherein all the Meſſnages, Lands, and Tenements in the ſaid Mannors, are ſet forth,*

forth, butted and bounded. The Tenure how all ſuch Lands are holden, and who be the right Owners thereof.

Then beginning at what part of the Town you pleaſe, and ſo go through, ſetting down every parcel of Land, Meſſuage or Tenement diſtinctly, abutting and bounding it: and at laſt, ſet down the Tenure and Title of the Owner or Inheritor, according to his evidence for the ſame: as thus; if you begin at the Mannor-houſe, then begin your Survey-book:

A. B. Eſq; Lord of the Manner of H. &c. holdeth one Meſſuage or Manner-houſe, being the ſcite of the Mannor aforeſaid, in his Demeaſne as of Fee, together with Barns, Stables, Dove-houſe, Orchards, Gardens, &c. abutting and bounding the ſame exactly.

Then proceed to the next Land as you go, whether Eaſt or Weſt.

A. S. holdeth next, and more Eaſt twenty

twenty Acres of Arable Land, abutting &c. *as it lies*, &c. *by Copy of Court-Roll*: ut patet per Cop. ſuam de Rotulis Curiæ.

If it be Free-hold of Inheritance, then ſay:

A. S. holdeth of the ſame Manner, one Free-Tenement, &c. *abutting it exactly, and putting down his Title and Tenure, according to his Evidence.*

If the Lords of Mannors, and Tenants in their ſeveral Pariſhes and Townſhips would but joyn together, with a little charge, they might have Books of Survey made of their ſeveral Mannors, wherein each mans Propriety might be recorded and known: and this being done, but once in an age, or by every ſucceeding Lord, his Tenants and himſelf might live in amity and tranquility; and many chargeable and vexatious Law-Sutes, to the undoing of thouſands, avoided: and people might quietly follow their Vocations at home, and not the promotion of others, by the ruine of themſelves. But

probably the Obſtructors of Peace will give me ſmall thanks for this. Oh *Monſieur Self-ends* and *Avidus!* when wilt thou depart from us? *R. T. Pacis dulcis Amator.*

According to promiſe, I ſhall proceed to declare the manner of proceeding in ſome inferiour Courts of Record of this Commonwealth; but declaring them fitter Objects of Reformation then Practice, they were indeed originally inſtituted for the more ſpeedy adminiſtration of Juſtice, between party and party, in their Corporations; but are now, by the corruption of time, become Inſtruments of vexation and injury: and becauſe they are ſeated in the *Metropolis*, I ſhall firſt begin with the Sheriffs Courts of *London.*

There is holden at the *Guild-hall* for the City of *London*, two Court-days for one *Compter*, holden before one of the Sheriffs; and two Court-days for the other *Compter*, before the other Sheriff in every week: holding Plea in all perſonal Actions, *ad infinitum.* Their Practice in both Courts, differs neither in manner, nor form,

form, nor substance; but the beginning of their proceeding, I mean, the levying of their Plaints is the most unjust and illegal, both in the eye of the Law, and of all rational people of any Court in the World.

For indeed the blame of all Courts, is, that they do not issue out Summons, and take sufficient Pledges to prosecute upon the Return of the Summons, as the Law originally intends, before the awarding of any *Capias*, for arresting the Body of the Defendant: but return an Original of course (as they call it) sometimes, and sometimss not at all; putting *John Doe* and *Richard Roe*, for Pledges to prosecute; whereas indeed, there ought to be a due Summons first returned, and Pledges that is sufficient Sureties, That if the Plantiff do not prosecute, or be overthrown in his Action, the Defendant shall be satisfied his costs and damages for his unjust trouble charge and vexation.

But the Practice of these Sheriffs Courts is so far from this, that they make out no Process nor Precept at all for to warrant their Arrest. But they have a Book in their Office at the *Compter*-gates, wherein they enter the Actions, that is, the Plantiffs and

Defendants Names, and the Debt or Damage; and that is all: And this is most often done after the party is arrested and in Prison: for if two of their Varlets meet a man in the street, minding to make a prey of him; for which they continually lurk; they immediately seize on him, if they know but any person he hath any dealing with, be the Case right or wrong; they presently drag him to the *Compter*, or their petty Goals at next door, and then run and enter against him what Actions they please, in the Name of any Man. And at the next Court-day, the Defendant perhaps, after two or three days imprisonment, may obtain a Non-Sute; and shall have adjudged him 7 *s.* 4 *d.* for his Charges, which is not the tythe thereof: and that he may look for, if he can tell of who: or any man whatsoever, that hath any envy in his breast, which there are few that want, may come, and enter an Action against any man he's minded to do a mischief unto, and keep him in Prison at 8 *d. per* week, charges to the Knave, as long as he lives. And their way of taking of Pledges of prosecuting, is thus: To demand of the Plantiff, or he that enters the Plaint, where he

he lives: if he say in *Fleet-street*, then they enter Pledges to prosecute, *John Fleet*, *Richard Street*; if in *Common-Garden*, then Pledges, *&c. John Common*, *Richard Garden*: according to the place the party names, though no such man be.

And it is a great oppression to Country-people, who are thus snapt up by irregular Proceedings. This is not to expedite Justice, but to disgrace the Law, and wrong the Commonalty. By this means, I have known many utterly undone; and some have lain in Prison five weeks upon this account, and never knew, heard of, nor could never finde out his Adversaries.

And then, after this he hath non-suited their Actions, entred over and over again; they take a President from a worse then this, that I must take so much leave, as plainly to speak of; that is, the Court of Upper-Bench, from whence issues a Writ, called a *Latitat*; or in the County of *Middlesex*, A Bill of *Middlesex*: and upon the supposition of one of these returned, though never any such thing be, they award a *Latitat* into all Counties, to take the Defendant, without naming the

cauſe, onely Treſpaſs, be it what it will be; upon which, if he cannot put in bayl, he ſhall lie in Priſon two Terms; which ſometimes with the Vacations to boot, is above half a yeer: and then if the Plantiff declare not, he may obtain his Liberty by a *Superſedeas*, if he hath money to purchaſe it: but not a farthing coſts, or any remedy againſt the party that injured him.

And if a man be arreſted by a *Latitat* or Bill of *Middleſex*, and the Plantiff never declare after he hath put in Bayl, he ſhall not have any coſts, but only a Nonſuite or a Diſcontinuance as they call it, unleſs the Defendant appear in perſon, and that is hardly worth his while. This I made bold here to mention, becauſe it is a Grievance cries loud for Redreſs: and ſo doth the City-Court too: for can it ſeem reaſonable that any man ſhould be arreſted and impriſoned he knows not why nor wherefore? and moſt times irregularly; the Sergeants having the advantage to do it, without Warrant, or any Precept or Proceſs to be ſhown; oftentimes, nay, moſt commonly impriſon the Defendant without any Action entred againſt him.

This

This Practice was abhorred by the Heathens: and then is it not a ſhame it ſhould be tolerated by Chriſtians?

But after the Arreſt, the Defendant appearing by Attorney, the Plantiffs Attorney declares if cauſe be; and then they fairly proceed to Trial, according to the ſubſtance of the Proceeding of the Upper-Bench; though different in form: and to the Defendant, if he be a Free-man in caſe of debt, is allowed four Defaults, by which time, he may make his peace if he be wiſe.

And by the way give me leave to tell you, That I have read, and I am ſure 'tis reaſonable, That it is not lawful for a Citizen or one living in a Corporation to arreſt any ſtranger that inhabits in another Country into one of theſe Courts, but by Proceſs from above: for theſe Courts had their Authority granted them originally from the King for their eaſe, and the more eaſie diſpatch of Juſtice between one another in their ſeveral Franchiſes: for as the Forraigner hath no benefit by their Franchiſe; ſo ought he not to be impleaded in their Courts. Beſides, a great diſadvantage lies upon the ſtranger being far from

home, and distant from Friends, is too often enforced to purchase his Liberty by an unjust Composition.

There is also a Court holden before the Major and Aldermen in the *Guild-hall*, of the said City, unto which the Sheriffs Court is subject by removal, and both of them to a *Habeas Corpus* out of the Upper-Bench or Common Pleas, if the Action be not under five pounds; and if it be, then the Defendant may cause another Action to be entred against him, at the Sute of any person he will name, which is above 5 *l.* and remove both together.

There is also another Court of Equity, held between one Free-man and another in the said City, wherein they regularly proceed by Summons in all Debts not exceeding 40 *s.* and pity it is, that the Authority of that Court extends no higher.

Thus by the head, you may guess at the whole Body; I mean, the Proceedings of all Corporations: for setting the first Arrest or Process aside, when they come to declare, they do generally in their Declarations, imitate the Bills and Declarations of the Upper-Bench.

I would be larger, but I proceed to other things here more aimed at: only by the way let me desire the Stewards and Judges of all such Courts, to be careful in amending what errors they finde hath through the rust of Antiquity, crept in among them: endeavouring as much as they can the ease of the Subject, and equal Right to all.

Certain

Certain Queſtions and Caſes in LAW, Reſolved.

1. JOhn Doe *ſurrendred to his Wife certain Copy-hold Land of Inheritance to her, and to the Heirs of their two Bodies to be begotten, and for default of ſuch iſſue to the right Heirs of the ſaid* John Doe; *but in the ſaid Surrender, doth not expreſs in that ſaid Surrender, that he gives it to her for her Joynture, although it was his intent ſhe ſhould have no other Dowry: whether is this a Joynture or not?*

2. *The ſaid* John Doe *died without Will, his Wife adminiſtred, and there was certain Timber felled for the repair of a Copy-hold belonging to the Heir, which the Praiſers refuſe to put into the Inven-*

ventory, for the reaſon aforeſaid. This Widdow marries again, and her Husband takes away the Timber ſo felled from off the Lands belonging to the ſaid Heir: whether is this Felony or not?

3. *Her ſaid Husband is the Lord of the Mannor, and doth detain & keep certain Writings from the Heir of the ſaid Deceaſed, refuſing to keep any Court where the Heir ſhould be admitted Tenant to certain Copy-hold Land lying within his Mannor; but doth deſtrain for Quit-Rent upon the Land belonging to the Heir, refuſing to diliver the Heir his Writings, or ſhew any Title he hath to the Quit-Rent.*

4. *Whether the aforenamed Surrender being accepted and taken, doth not bar the Woman to have any Dowry either in free or Copp-hold Lands, after her deceaſed Husband; although the Cuſtom Book of that place where the Copy-hold lieth, renders the Widow of the Deceaſed the third part of the Lands, that her Husband died ſeized of?*

5. *What ſorts of Wood is accounted Timber by the Law; and whether the Wo-*

Woman by vertue of the aforenamed Surrender, can cut and ſell any manner of Woods growing upon the ſaid ſurrendred Lands, to make a waſte and ſpoil: or whether the Land reſtrains her but to cut for neceſſary uſes?

6. *Whether the Widow of the Deceaſed in her Widowhood letting a Leaſe* Parole *for five yeers of her ſurrendred Land, contrary to the Cuſtome: ought not to make good the ſaid Leaſe* Parole *to the Tenant, becauſe he ſhall be much damnified if he enjoy not the ſame?*

7. *If a man taken with an Execution for Debt by the Sheriffs Bayliffs, and the ſaid Bayliffs ſuffer him to make an eſcape, and the Creditor reneweth not the Execution in two or three yeers, after, whether may he afterward bring his Action againſt the Sheriff or the Debtor?*

8. *We deſire to know what penalty is to be laid upon the Lord of a Manor which ought to keep a Court-Leet once a yeer, and doth not, and to whom the penalty belongeth?*

9. *How Lords of Mannors do hold their Lordſhips and Mannors, and whether*

ther they pay any Rent therefore or no?

10. *If Lord of a Mannor commit Felony, who is to have the forfeiture of his Royalty?*

The Resolution of the foregoing Questions.

To the first: A Joynture of a Copyhold doth not bar Dower; for that at the common Law it did not: and by the Statute of Uses the Joynture must be of Lands at the common Law; and whereof Uses might be raised, which holds in neither in Copy-holds.

2. It is not Felony; but the Lord of the Mannor may have an Action of Trespass against the said Husband; or the Heir may have an Action upon the Case against him.

3. The Heir may sue him at common Law for detaining of his Writings: and touching the distress for Quit-Rents, let the Tenant bring a Replevin, and the Lord upon his Avowry must shew his Title.

4. The

4. The Statute of Joyntures doth not extend to Copy-holds for the Reasons given to the first Question; and therefore that Statute is no bar.

5. Elm, Oak and Ash are accounted Timber in Law; and Beech in Countries barren of Wood: the Law restrains any Copy-holder to fell Wood or Trees, but for necessary uses, unless the custom warrant it otherwise.

6. The Lease *Parole* for five yeers not warranted by the Custome is a forfeiture of the Widows estate, if the Lord take advantage thereof; if the Lord so do, the lessee hath no remedy.

7. Against the Debtor he can have no Action of Debt; for his Action was determined by the Execution: but within two or three yeers he may bring an Action of Debt against the Sheriff.

8. A *Quo Warranto* lieth for non-user or abuser of a Franchise. The penalty is the Seizer of the Leet.

9. All Lordships and Mannors were holden before these times *mediate* or *immediate* from the King by accustomed or reserved services.

10. If

10. If he hold of the King: the King; if of a measne Lord, that Lord.

Cases resolved touching WILLS.

What persons are able by the Law to make a Will or Testament, and who not.

A Person out-lawed for Felony cannot make a Will; but if a man be out-lawed only in personal Actions, he may make a Testament of his Lands, but not of his Goods. The same Law is of a man attainted of a *Præmunire*, but not of a man excommunicated.

An Infant making a Will of his Land within age, and dieth after he cometh at full age, not revoking this Will, it is not a good Will.

A woman seized of Land, and marrieth; and afterwards maketh a Will of it: this is not good.

A Lunatick being of ſound memory, maketh his Will and becometh lunatick; and afterwards comes to his underſtanding, and dies: this is not a good Will.

A man ſpeechleſs, or one born deaf and dumb, may make a VVill by ſigns.

A man being of a ſound memory, makes his VVill, and afterwards becomes mad, and ſo dies: this is not a good VVill.

A man who hath a wife not divorced, taketh another wife who is an Inheritrix; ſhe cannot make a VVill.

What is a good Will, and what not; and and what ſhall be a Revocation, and what not.

A Will without naming any Executor, is good for Lands, but not for Goods.

A Will wanting date is good, if made after the 20 day of *July* 1540.

A Will without ſealing or ſubſcribing, if it be made in writing in the life-time of the Teſtator, although it be never proved before the Ordinary.

A Will Nuncupative is not good for Land.

Two men ſeverally ſeized of Land,

make a joynt Teſtament of their Lands: this is good.

A man is making his Will, and hath deviſed parcel of his Land; and before the finiſhing thereof, he dieth: the Will is good, for ſo much as is deviſed.

If a man appoint by his Will, that his Land ſhall be ſold to pay his debts, and ſheweth not by whom; the Will is good, and ſhall be performed by the Executors or Adminiſtrators.

If a man makes a will of land that is not his own, and after purchaſe the ſame land and die: this is not a good will.

Alſo if a man makes a Will of his Land, and after alien this Land, and afterwards repurchaſeth it again: this is not a good Will.

A woman makes a Will of her land, and after takes a husband, who hath iſſue; the husband and the wife both die: this is not a good Will.

A man makes a Will, and afterwards makes a new VVill; and after in his bed dying, ſaith that his firſt VVill ſhall be his laſt VVill: this is good.

A man makes his Will in writing, and after giveth divers Legacies to ſeveral per-

sons; then after by word revoketh all but one: this is a good Revocation of all but that one.

If a man gives land by Will to one person in Fee, and afterwards giveth the same land to another person by another Will but for term of life; this is a Revocation of the first Will.

What things are deviseable, or may be devised.

If a man be seized of lands deviseable, and thereupon buildeth; the house or building may be devised. So likewise may a Rent-charge created *de novo*.

A man seized in right of his wife, and granteth parcel of his land to one, and after deviseth the residue to another: this is good.

If a Farmer of land not deviseable, erect and fix a Furnace in the midst of the house in the land, he may devise this Furnace.

A tenant in Fee-simple or Fee-tail, may devise the Corn, although the land be not deviseable: but trees he cannot.

A man seized of a Mill, may devise the runner-stone, but not the under-stone.

If a man have an annuity to him and his heirs

heirs, he cannot deviſe this annuity: but if it be an annuity for term of years, he may.

If a husband die, having before deviſed Corn upon his wives land, it is good, whether it were ſown before the Marriage or after.

What words ſhall make Fee-ſimple lands, and what not.

Land given to a man, to hold to him and his heirs, with Warranty of the land to him and his heirs; this is a good Fee-ſimple.

Land deviſed to a man by Will, by theſe words, *To do with it at his pleaſure*; this is a good Fee-ſimple.

Lands given to a man, to hold to him in Fee-ſimple, and livery made to him and his heirs according to the form and effect of the deed; it maketh Fee-ſimple.

Land given to one for term of life, and livery and ſeiſin made to him and his heirs, according to the form and effect of the Deed: this is not Fee-ſimple.

A man ſeized in Fee-ſimple, grants *totum ſtatum ſuum*, his whole eſtate; *Habend'* to the grantee and his heirs, and maketh livery according to the Deed: this is Fee-ſimple.

A man leavieth a Fine *sur Connuzance de droit come ceo*, &c. the Conusee, that is, him to whom the Fine is granted, hath Fee-simple.

Two Coparceners in Fee simple make partition; and for equality of partition, a Rent is assigned out of one part to the other, without any other words: the Assignee hath the Fee-simple in the Rent.

Land is given by Deed, the *Habendum sibi & haeredibus suis, vel de corpore suo*, to him and his heirs, or the heirs of his body; this is not Fee-simple: But if the *Habend'* were *sibi & haeredibus suis, vel suis assignatis*, to him and his heirs or assignes.

A man makes a Lease of two acres of Land for life, the remainder of one of them (without shewing which) to a single woman in Fee: she taketh a husband, and after the Lessee is impleaded in a *Precipe quod reddat* of one of the acres, and prayeth aid of the husband and wife, as of them in Remainder: they joyn in aid *gratis*, and cannot bar the demandant, whereby he recovereth. The husband dies, the Lessee dies; the wife hath the fee-simple in the other acre.

Tenant

Tenant in tayl enfeoffeth his brother, Recovery is had against him by erroneous Judgement: the tenant in tayl hath issue, and dieth, the issue within age: the brother dieth without issue; the issue in tayl being his heir within age, reverseth the Judgment by errour, and enters; he hath fee-simple.

A Lease is made to the husband and wife by Deed, *pro termino vitæ suæ, Habendum eis pro termino vitæ*, to have to them for term of life of the wife: she dieth, the husband continues in possession; he hath fee-simple.

A Lease is made to a woman for term of years, upon condition, that if she have issue within the term, that she shal have fee: the Lessor and Lessee inter-marry, and have issue within the term, and the husband dieth: the term expireth, and the wife continueth in, seized of the fee-simple.

Husband and wife Joynt-tenants in tayl, make a Lease for life, the husband dies, the fee-simple descends to his son out-living the wife.

Who have a sole estate in fee-simple, that they may devise it, and who not?

A man seized of Land in Fee, hath issue a daughter beyond the Seas; and after, he hath another daughter within the Realm, and dies; the daughters enter together, the younger daughter hath a sole estate in fee-simple.

A man is disseised by two, and he releases all his right to one of them in tail; he is sole seized in Fee-simple.

One Joynt-tenant releaseth to his companion upon condition; the Releasee dieth, his heir enters: the condition is broken, and the Releasor enters, clayming the moyty; the heir shall not be said to be sole seized.

Two Coparceners in Fee are impleaded; the one of them disclaimeth, the other is not sole seized. The Law is otherwise between Joynt-tenants.

A man seized in fee, hath issue two daughters bastards, and one daughter legitimate: the Bastards enter; the daughter legitimate releaseth to one of them, she is not sole seized.

Land

Land is given to a man, to have to him together with A. the daughter of the *donor* in frank marriage, after they are divorced, *causa praecontractus*, at the suite of the husband; the *donor* dies, the daughter is his heir; she is sole seized.

A woman Inheritrix hath issue, a daughter, her husband dies; she takes a second husband, and hath issue another daughter: the husband and wife exchange the Land of the wife for other Land in Fee; and after the wife and husband die, the daughters enter into the Land taken in exchange: the younger shall be said to be sole seized.

A *feme* sole makes a Feoffment upon condition to be performed on the part of the Feoffee at a certain day, before the day they inter-marry, the day incurreth, the money not paid: the husband is sole seized.

A Feofment is made to two, and to their proper use, and livery, and seizin, is made to one of them accordingly, he is not sole seized; otherwise, if no use had been expressed.

A Feofment is made by deed to two, with a Letter of Attorney to one of them, to deliver seizin; and he makes livery to the other accordingly: he is not sole seized in Fee simple.

Two joyn-Tenants, one within age, are diſeiſed by the Father of the Infant; and the Father dies ſeized; the Infant enters, and the other occupieth in common with him: the Infant is ſole ſeized.

Two joynt-Tenants in Fee: the one bargains and ſells by Indenture all his part; and before the Inrolment, the other dies, and the Indenture is inrolled within the ſix months, the other moyety ſhall deſcend.

What perſons are Coparceners or Tenants in common, in fee ſimple: and who may deviſe their parts, and who not.

A man hath two daughters, and makes a leaſe to them for term of their lives; the father dies, the daughters are ſeized in Fee in Coparcenary.

Land is given to a husband and wife, and to a third perſon, and to the heirs of the husband; and the third perſon releaſeth to the husband and wife; and to the heirs of the wife: the husband and wife are not joynt-Tenants, nor Tenants in common of the Fee ſimple: but the huband himſelf is ſole ſeized in Fee.

A man hath iſſue, two daughters, and the

elder

elder of them holdeth certain land of the father by 4 *d.* rent; the father dieth, the younger sister shall be presently seized without any partition of 2 *d.*

Two joynt-Tenants by deed, make such partition, that is, that the one of them shall have the one moyety to him and his heirs, and the other shall have the other moyety to him and his heirs, without any meetes or bounds, they are not Tenants in common.

A man makes a Feofment of two acres of Land *habendum*; the one acre to one of them and his heirs, and the other acre to the other & his heirs: they are joynt-tenants.

Three Coparceners are agreed to make a partition, so that the one hath a several part alloted to her in severalty; and that the others shall hold in Coparcenary: and for equality of partition, a rent is granted and alotted out of the several part to the others in Fee: they are Coparceners of the Rent.

A man makes a lease for life, and hath issue two daughters, and dieth; the Lessee makes waste: the one of the daughters hath issue, and dieth: the issue and the other bring a Writ of waste, and recover, and enter; they are Coparceners as well of the Free-hold as of the Fee.

Land

Land is given to two to have to them, that is to say, to the one of them in tail, and to the other in Fee: he who hath the Fee, deviseth the whole, and dieth: this not good for any part.

What devises of reversions or remainders of Rent be good, and what not?

A man lets a lease for term of life, and after disseiseth his Lessee, and makes a Lease for term of life to another: for term of life of the first Lessee, the remainder over in Fee, the first Lessee enters, yet he in the remainder may devise his remainder.

A man makes a lease for yeers upon condition that the lessor disturb the Lessee within the term of the Lease, that the Lessee shall have Fee, and maketh Livery accordingly: the lessor disturbeth the Lessee for Rent, where none is in arear, and after he deviseth his reversion: this is not good.

A man makes a Lease of two acres of Land, reserving rent, and hath issue two daughters, and dieth; the daughters make partition of the reversion, so that the reversion with the appurtenances of one acre is allotted to one, and the other to the other: they

they severally devise the rent: this is not good.

Land is given to two *habend.* to the one for life, and after his decease to the other in Fee, he who hath the Fee deviseth his reversion: this is good.

The husband endows his wife at the Church-door, and after is attainted of Felony, and dieth, the wife enters: the Lord of whom the Land is holden, deviseth the reversion, this is not good.

A lease is made for life: the remainder in Fee to the wife of the deviser, she survives, and deviseth this remainder: this is good.

An Infant makes a Lease for life, the Lessee grants his estate over with Warrants: the Infant at his full age bringeth a *dum fuit infra ætatem*, against the Grantee, who avoucheth his Grantor, who entreth into the warranty, upon whose possession the Demandant releaseth in Fee all his right and is barred in the action by this release, and after deviseth his reversion: this is a good device.

A man grants his reversion in Fee, and before attornment he grants the same reversion to the Grantee for term of life onely; and

and the Tenant attorneth generally the Grantee deviseth this reversion: this is a good device.

A husband makes a Lease for life to the daughter and heir apparent of his wife, being covert rendring rent; the wife mother dieth, the husband deviseth the rent: this is void.

A man makes a lease for life, reserving rent to him and his heirs, the Lessor deviseth his rent; this is good: but if he reserve the Rent, to him and to his Assigns, it is not good.

What gift, or estate, or conveyance shall be said to be made by covin or fraud, and what not.

A man holdeth Land in soccage of a common Lord; and he conveys this by fraud to defraud the Lord of his relief or herriot, the Lord shall not take advantage of this covin.

The Tenant makes an estate in Fee upon condition, and takes back an estate to him for life, the remainder to his eldest son in tail, and for defalt of such issue, the remainder to the heirs of the body of the father

ther begotten, the remainder over in Fee to the Lord of whom the Land is holden, yet this is covin at the pleaſure of the Lord.

A man *bona fide* enfeoffeth two of his ſervants to their own uſe, for good ſervice done and to be done; and they by covin convey divers fraudulent eſtates to their maſters, with remainders over, *&c.* and the maſter knowing of their intent rejoyneth at it, yet this ſhall not be fraud.

The Tenant intending fraud, enfeoffeth divers perſons, and putteth the Lord in truſt as Attorney, to make Livery and Seizin, and ſo he doth, yet the Lord ſhall avoid this covin.

The Tenant maketh a Leaſe for yeers to the Lord, and after by a Fyne conveyeth fraudulent Eſtates, *&c.* and after, the Lord within the term, maketh his Executor, and dieth, and the Executor entreth into the term, and after the leſſor dieth, his Heir within age, and the term continueth, the Heir of the Lord ſhall not avoid this covin.

What shall be said, a purchase of Lands by the Husband for the Joynture of the Wife, and what not?

Land is given to three men, and a *feme* sole: one of them marries with the *feme*, she being excommunicated, one of the others releaseth to the husband and wife, and to the Heirs of the husband: the husband dies, the wife assents. This is a good Purchase, and yet the wife is not a Tenant for life.

I. S. being contracted marrieth another wife, and after marrieth her with whom he was contracted: he and this wife exchange land, which he had in the right of his wife: the husband dieth; she agreeth to the exchange. This is not a Joynture.

A windmil is leased to a woman for years, who taketh husband, he granteth the term upon condition, and for the condition broken, enters, the lessor releaseth to them, *& heredibus suis omnibus masculis*: and if they die without such an Heir, that this shall remain to the Heirs of the husband: this is good, *&c.* 27 H. 8. cap. 10.

A Reversion upon an estate for years is devised to the husband and wife in free marriage by the father of the husband, the remainder to *J. S.* in Fee, Tenant for years surrendeth to the husband, who dieth; the wife enters: this a good estate to the wife, *&c.*

An upper-chamber is granted without deed to *A.* for life, the remainder for life, the remainder to *A.* in Fee: *A.* grants his estate to him in remainder and his wife, and to their Heirs; and if they die without Heirs males of their bodies begotten, that then this shall revert: the husband dies, the wife enters. This is an estate to the wife, *&c.*

Land is devised to *J. S.* for life, the remainder to a husband in frank-marriage for, *&c.* *J. S.* and the deviser die; the husband enters and dies, the wife enters: this is not an estate made, *&c.*

Five acres of Land, adjoyning to the Sea are devised to husband and wife, *& hæredibus suis masculis*, for, *&c.* five other acres adjoyning thereunto, the Sea forsaketh, into which the husband and wife enter: this is not any estate made in the five acres newly gained.

J. S.

J. S. by Indenture bargains and sells a Dove-house to husband and wife, and to their heirs so long as they have issue of their bodies, whereas he hath no Dove-house: *J. S.* buildeth one, the husband enters and dies, the wife enters: this is no tail in Joynture, *&c.*

The father giveth Land to the son and his wife, *& liberis suis*, with warranty to the son and his wife, and to the heirs of their bodies for ten yeers, they are impleaded within the ten yeers, and lose and have in value: the yeers expire, the husband dies, the wife enters: this is not an estate in tail for joynture, but for life.

Land is given to *A.* and *B.* and to the heirs of *B.* *B.* leaseth this to a *feme* sole for life, the lessor grants to the said *feme*, and *J. D.* common for ten yeer out of the said Land, during their lives for the joynture of lessee, and after marrieth her: *A.* and *D.* die: this is an estate conveyed for life as an hereditament.

To grant an anuity of 10 *l.* joyntly and severally, to *J. S.* in Fee, who granteth it to husband and wife, to the husband for the life of *J. D.* to the wife until one of the

the ſons of *J. S.* accompliſh the age of twenty one yeers, the husband dieth; the wife accepteth this annuity: this is an eſtate made for the wife for a joynture, *&c.*

A Leaſe for life is made to the husband, the remainder to his wife and *J. D.* ſucceſſive for their lives, the husband felleth trees and dies, the wife enters, the Vendee cuts, the leſſor recovers in a Writ of waſt, and hath execution: this is an eviction by lawful action: and yet the wife ſhall not have a Writ of Dower.

A Lordſhip by fealty and rent, is given to Baron and *feme* in tail before marriage, for, *&c.* the remainder in fee a Tenancy eſcheateth the husband, leaſeth the Seignory to *A.* who recovereth in a *Ceſſavit*, and dies, his heir enters, the husband dies: this is an eviction by lawful action, and the wife ſhall recover but an eſtate for life to the value of the Tenancy.

Tenant in tail of a rent, purchaſeth the Land, out of which *&c.* in tail and giveth it to Baron and *feme* for their lives for, *&c.* fifty yeers expire, Tenant in tail, and the husband die, the wife enters, the iſſue bringeth a Formedon of the rent and recovereth, and is put in execution: this is an eviction,

and the wife shall have it to the value of the rent.

Land is gransed to a *feme* covert for life, for, *&c.* he in reversion grants is by Fyne: the Connusee brings a *scire facias*, the husband claims Fee, and it is found against him whereby judgement is given, the husband dies, the wife enters, the recoverer enters: this is not an eviction.

Tenant after possibility of issue extinct, the remainder for life is diseised, and released to the diseisor, who dies: his heir gives the Land to husband and wife in tail, Tenant for life bringeth *a consimili casu*, and recovers; the wife enters: this is not an eviction.

An Infant gives a Park to a *feme* covert for life without impeachment of waste, the remainders of them to two men, and the heirs of their bodies: the game is destroyed, the husband dies, the wife enters, they bring a Writ of waste, the wife pleadeth *Nul* waste, *&c.* whereby they recover: this is a lawful eviction, but she shall not have a Writ of error.

Land of the value of 20 *l. per annum*, is granted to a *feme* for life, rendring 10 *l. per annum*; she marrieth: he who hath right

right, recovereth the Land by covin of the husband, and hath Execution; the husband being Tenant in tail, dies, having Land to the value of 10 *l. per annum*, the wife shall have it discharged of the rent, lessee for life reversing rent, the lessor diseiseth him and makes a feofment, the feoffee dies, his heir giveth the land to the lessor and his wife in tail for her joynture. Tenant for life brings a writ of entry in the post, and recovereth, and hath execution, the husband dies, the wife shall have dower, and shall recover for life the rent not recovered in value.

Grandfather, father and son, the father diseiseth the grandfather, and taketh a wife, the father surrendreth certain Copy-hold land to the use of himself and his wife, and the heirs of the husband: the father dies, the son enters, the grandfather dies, the wife shall have this joynture or dowre, but not of this land.

Land is given to husband and wife in tail, with warranty, the lose and recover in value against him who hath nothing: the husband and *J. S.* being joynt-Tenants, agree by deed, that after five yeers ended, they shall hold in severalty: the husband

dies within the five yeers, the wife hath dower aſſigned, ſhe ſhall have both.

Lord and Tenant: the Tenant is attainted of Felony, and commiteth Treaſon, for which he is attainted, the Lord enters, and gives the land to the Tenant and his wife for yeers, upon condition, that if the Lord do not pay 20 *l.* to the husband and wife at a certain day, that they ſhall have it in tail; for the wives joynture: and the husband dies before the day the money is not paid: this is a joynture, and the wife ſhall not have dower.

A. enſeofeth *J. S.* and *B.* makes livery to *J. S.* who taketh a wife, land is given to them in ſpecial tail for the joynture of the wife, they levy a fyne, *J. S.* dies, a *præcipe* is brought againſt *B.* he diſclaims; the heir of *J. S.* enters, the wife ſhall not have joynture nor dower of the land, but of other land ſhe ſhall have dower.

A rent-charge iſſuing out of Lands in ſeveral Counties, and in the hands of ſeveral perſons, is granted to husband for life, the remainder to his wife for her life for her joynture; the husband dies, the Tenant attorns to the wife, ſhe ſhall not have this joynture nor dower.

Land

Land is given to *J. S.* for life, the lessor disseiseth him, and giveth the land before Coverture to the wife for life for a joynture, a stranger confirmeth her estate with warranty; *J. S.* bringeth a *Praecipe* and recovereth, the wife hath in value, the husband and he in reversion make a feofment before the Statute, the husband dies: this is not an eviction by discontinuance of the joynture, and yet she shall recover dower.

What is a joynture assured before marriage, and what a joynture after marriage?

A Lordship by fealty and Rent before marriage is granted to Baron and *feme* for a joynture, they marry; a Tenancy escheateth, the husband enters and dies: this is a joynture in the Tenancy assured before marriage.

J. S. contracts with *A.* and before marriage, concludes with *B.* that he will recover the Mannor of *D.* and that this shall be to them in tail for a joynture, *B.* brings a writ of entry, which is returned, they marry, *B.* recovers and enters: this is a joynture after marriage.

I.S. leaſeth to two for yeers rendring rent, and grants the reverſion to husband and wife for their lives for a joynture, one attorneth before marriage, and the other after marriage; this is a good joynture before marriage.

I. S. enfeoffeth *I. D.* to the uſe of himſelf until he marry, and after that he marrieth, then to the uſe of her that ſhall be his wife for her for a joynture: this is a joynture after marriage.

I.S. grants land to a *feme* for ten years, and if he after marry her, then ſhe ſhall have it for her life for a joynture, they marry; this is a joynture before marriage.

I.S. in conſideration of a marriage to be had betwixt him and *A. S.* covenanteth that he ſhall be ſeiſed to the uſe of him and the ſaid *A.* for their lives; they intermarry, the deed is inrolled: this is a joynture before marriage.

After affiance between *I. S.* and *A. S.* they conclude that a fyne ſhall be leavied of the Mannor of *D.* for her joynture, the concord is acknowledged before the chief Juſtice, they marry, and after a writ of Covenant is brought, and a fyne leavied: this is a joynture after mariage.

I.

I. S. and *A.* marry before yeers of conſent, land is given to them for their lives, at the yeers of conſent they agree: this is a joynture after marrige.

I. S. makes a deed of feofment to *A.* with a letter of Attorney, which feofment *A.* doth expreſs to be to the uſe of himſelf, and her who ſhall be his wife for their lives, for a joynture, they marry, the Attorney maketh livery: this is a joynture after marriage.

I. S. diſeiſeth one to the uſe of *A.* and *B.* whom he intends ſhall marry for a joynture. *A.* and *B.* enter, and after the diſeiſe releaſeth to the wife for her joynture: this is a joynture after marriage.

Land is given to *A. B.* and her who ſhall be his wife, for a joyntute, they marry, the wife enters: this is a joynture in the moyety, which ſhe ſhall have by ſurvivor, and before marriage.

A. deviſeth, that his Executor ſhall give the Mannor of *D.* to *J. S.* and *A. D.* who ſhall be his wife, for their lives; they intermarry, the Executor grants the Mannor accordingly: This is a joynture before marriage.

Some Cases resolved touching forceable Entries, by the Statute of 8 H.6 c.9.

The turbulency of some troublesome Spirits, oftentimes cause great mischief in this case, who have the Law in their own hands, and altogether be their own carvers in laying hold on violently whatsoever they imagine their own, not regarding the mark or touchstone whereby it should be proved: from whence arise tumults, affrays, riots, assaults, mayhems, man-slaughters and murder it self: for prevention of which evil, the Statute of 8 H.6. hath provided remedies, and given power to the Justices of peace to suppress such misdemeanors; and because the Country people are much infested with this malign disease, for whose instruction this Treatise is chiefly intended: I shall here give them some Directions in this Case.

What

What is a forceable entry, and what is a forceable detaining? and what not?

If two perſons or more, being armed, or having weapons in their hands, enter the houſe of another to have poſſeſſion thereof; and thereupon the party in the houſe departs afar off without any further violence offered him: this is a forceable entry.

If two men or more armed, *&c.* enter the houſe of another, the door being open, not declaring their intent, and remain in quiet, notwithſtanding the Tenants, without uſing violence: this is not a forceable entry.

But if two or more enter the houſe of another in a peaceable manner, and after with force and violence againſt the will of the party in poſſeſſion put him out of poſſeſſion: this is a forceable entry.

If a ſingle perſon break the houſe or windows of another, and enter in, againſt his will, and thereupon he threatens the party in poſſeſſion; inſomuch, that for fear he forſakes the houſe: this is a forceable entry.

If a forceable entry be made into the houſe

houſe of another to fight with the party there dwelling; and he for fear departs out of the houſe, and his enemies alſo: this is not a forceable entry.

If a man make a leaſe for life, and after grant the reverſion to the ſame leſſee upon condition, which is broken on the part of the leſſee, and thereupon the leſſor enters with force to gain the poſſeſſion of the land: this is a forceable entry.

But if the leſſor enter with force to ſee if waſte be made by the leſſee: this is not a forceable entry.

A Lord diſtrain for rent withforce, though none be arear: this is not a forceable entry.

If any be fighting in a houſe, and the door ſhut, and others enter, & break it to ſee the peace kept: this not a forceable entry.

If two perſons are fighting in the ſtreet, and one wound the other, ſo that he is in danger of death, and flee into a houſe, and ſhut the doors after him, and others there preſent purſue him, and break the houſe to take him: this is not a forceable entry.

But if no ſuch danger of his life be, then they cannot break the houſe to take him, although it be done upon freſh ſuite; but if the door be open, they may enter and take him.

If

If the Juſtices of peace upon complaint made come to the place where the force was, and finde the door ſhut, and within the houſe there is but one ſole perſon, who will not open the door, & ſuffer the Juſtices to come in: this is a detaining with force.

If the Juſtices come to the place where the force was, and finde ſome perſons in arms, or their weapons lying by them in the houſe: this is a detainer with force.

If a man hath two houſes neer adjoyning, the one by a good title, the other by a defeazible title, he keepeth a force in the firſt houſe to beat them who would enter into the houſe by a defeazible title: this is a detaining of force within.

If a man claim common in any Land, and the Land is detained with force, when he would uſe his common, or diſtrain for his rent: this is a detaining with force.

If a man hear that certain fellows will come to his houſe to kill, beat or rob him; whereupon he aſſembles a force to aſſiſt him in his defence, this is no detaining with force.

If a man hath rent iſſuing out of the land of another, which land is detained with force, when he would diſtrain for his rent

arear

arear, he who is so disturbed of this rent, is no party grieved to complain by the Statute before recited.

If after the death of the father, a stranger enters by abatement into the land, and holdeth with force: the son is not a party grieved.

If a man be seized of land, upon which a forceable entry is made, and die before any complaint is made thereof, his heir is not a party grieved to make complaint.

If a man make a lease for five yeers upon condition that if within the first two years, the lessee pay to him 10 *l.* that then he shall have fee; and livery is made accordingly: there, if any such forceable entry be committed within five yeers, although that the condition be not performed, yet the lessee is a party grieved by this Statute.

A man possessed of a term makes the heirs of *J. S.* his Executors, and dies; the said *J. S.* being also then dead, leaving issue a daughter, his wife *pregnant* with another daughter; the first enters into the land after which the other is born, and then such a force is committed: both the daughters are parties grieved.

Who

Who are bound to go with the Juſtices at their command to remove a force? what is their penalty in caſe they refuſe to go? and of what force is the Juſtices record?

A man attainted of Felony upon requeſt made is bound to go with the Juſtices to remove a force.

Dukes, Earls, Lords, Barons, and every Apprentice and Servant is bound by the Statute to go with the Juſtices to remove a force.

An Alien born, and not made a Denizen, or a man who is not of ſound memory, an Infant within the age of fourteen yeers; or any woman ſole or covert, are not compellable to go with the Juſtices to remove a force.

A man going under bayl for debt or treſpaſs is not bound to go.

If hue and cry be made at one end of the Town, and the Juſtices require them at the other end of the Town, they are bound to go with the Juſtice to remove a force.

But if they have taken a Fellon, or are in purſuit of a Fellon at the time of requeſt

queſt, they are not bound to go.

If the Sheriff, Conſtable or other Officer without any Warrant, Proceſs or Precept, require any perſon to go with the Juſtices to remove a force: they are not bound to go by this Statute; neither can an Officer arreſt or impriſon them by this Statute for their refuſal.

But the Juſtices themſelves may require them being in their preſence by word only, and upon their refuſal, impriſon and fyne them.

If a forceable entry, and detainer with force be made upon the poſſeſſion of a Juſtice of peace, he himſelf upon the view of it cannot remoue the force.

But if upon a force committed, they alſo aſſault the Juſtice himſelf, then he may commit them to priſon.

If one part of a houſe be in one County, and another part in another County; and when the Juſtices come to remove the force before they can arreſt them, they go into another part of the houſe which is in another County; there they cannot remove the force by this Statute.

If a man enter the houſe of another by force, and expels the owner thereof, to one part

part or end of the ſaid houſe, and detain the houſe with force; the Juſtices may remove this force, and commit the offendor to priſon.

If the Juſtices be preſent upon other buſineſs, where a forceable entry is made, when they are informed thereof, before any detainer, they cannot arreſt them, and commit them to priſon by this Statute.

If the Juſtices come to remove a force; and upon an arreſt made, the offendors eſcape into another County, the Juſtices cannot arreſt them nor commit them to priſon by this Statute, although it be upon freſh ſuite.

If the Juſtices come to remove a force, and the offendors, before any arreſt, make an eſcape for that time, but in the morning they are brought back again before the ſame Juſtices to the ſame place, by vertue of their Precept, yet they cannot commit them by vertue of this Statute.

If the Juſtice come to remove a force, and before that they can arreſt the offenders they eſcape from thence; upon that, the Juſtices may well record this detainer with force, by this Statute.

If the Sheriff is made Juſtice of peace, and

and after in the same yeer that he is Sheriff, he cometh to the place where the force was, he cannot make a Record of this by the Statute.

If the Justices upon their coming to remove the force, make a Record thereof, and commit the offendors to prison; and although it appeareth by the same Record, That it was not a force upon the matter, yet no remedy for the party so convicted.

If the Justices make a Record, That they did see, where indeed there is no such matter, yet the parties cannot traverse it.

If the Justices come to remove a force, and a Rescue is made to the Officers, and others there present to remove them, they may record that as well as the force.

But if the Justices upon view of a force, record a Murder, Maim, or Man-slaughter, this is no Record by this Statute.

If the Justices upon a force committed and complaint thereof made, make enquiry thereof, without going to the place it self where the force was: this is also a good enquiry by this Statute.

But if the Justices upon view of the force, make

make a Record thereof, and their Record containeth that the force was made with twenty perſons, and the enquiry found it but ten perſons: this enquiry is not good by this Statute.

If ſeveral enquiries be made by ſeveral Juſtices, upon a forceable entry, every one of them is a good enquiry.

If the Juſtices in their enquiry of force, preſent an inqueſt by perſons not ſworn to do it; and the enquiry maketh mention that they were ſworn, yet this is a good enquiry.

But if the enquiry be made under the number of twelve: this is not any good enquiry.

If any of the jurors, before whom any ſuch Inqueſt is taken, be attainted of a falſe Oath, or in *decies tantum*, or are *Ambo-dexters*: this is not a good enquiry.

But if there be twelve perſons in the jury, over and above the perſons attainted, the inqueſt is good.

If it be found by inqueſt that *A. B.* was ſeiſed, until *J. D.* diſeiſed him with force by this inquiry, *A. B.* ſhall have reſtitution.

If it be found that the father made a leaſe for yeers, and died, the years expired; and before any entry made by the ſon, a force is committed; the ſon ſhall not have reſtitution by this Statute.

A man ſeiſed of land hath iſſue a daughter, and dieth, his wife great with child of a ſon, the daughter is ouſted by force, and after the ſon is born, and all this matter is found by inqueſt, yet the ſon ſhall not have reſtitution, but the daughter ſhall have it.

If it be found by ſeveral inqueſts, that a man is ouſted with force by ſeveral perſons at ſundry times of one and the ſame thing; each inqueſt is good, and he may have reſtitution upon which of them he will; but when he hath reſtitution upon the one, then he ſhall not have reſtitution upon the other.

If it be found by ſeveral inquiries (that is to ſay) by one inqueſt, That *J. S.* is ouſted by force; and by another inqueſt, That *J. D.* is ouſted with force, and all of one and the ſame Land: there each of them may have reſtitution by theſe enquiries.

If it be found that two joynt-Tenants were ouſted by force: the one may have reſti-

ſtitution upon this enquiry without his companion.

If it be found that *A. B.* wais ſeiſed for the Term of *D.* and he is ouſted with force by *E.* and that *D.* is now dead, yet *A. B.* ſhall have reſtitution by this enquiry.

If it be found that the Father was ſeiſed until ouſted with force, and died before any reſtitution or entry, the ſon ſhall not have any reſtitution.

Likewiſe, if a man be poſſeſſed of a leaſe for yeers, and is ouſted thereof with force, and dieth before reſtitution, his Executors ſhall not have reſtitution by this enquiry.

A leſſee for life, the remainder over in fee, the leſſee is ouſted with force, and all this matter found by inquiſition of the force, but he in the remainder ſhall not have reſtitution by this enquiry.

The husband and wife before iſſue had, are ouſted with force, and then have iſſue, the wife dieth, the husband by enquiry ſhall have reſtitution.

If a leſſee for life be ouſted with force, and the leſſor entreth for condition broken, and this is found by inqueſt, yet the leſſee ſhall have reſtitution by this enquiry.

The Juſtices of peace before enquiry be taken, may put the party in poſſeſſion again without any VVrit; but no other Juſtices can do it without Writ.

The Juſtices of the ſame County, the record being before them, may award exemption by Writ, although they be not the ſame Juſtices before whom the inqueſt was taken; but not without the ſame Record.

If the Juſtices who took the inqueſt be dead before reſtitution be made, yet the Juſtices having the record may award execution of the ſame: the Judges of the Upper-Bench having the Record removed before them, may award Execution by this Statute by Writ; but not otherwiſe.

If a Tenant of Land payes any rent to a ſtranger by compulſion of diſtreſs taken with force: this is a diſſeiſin with force.

But if a man be diſſeiſed of any rent by the Tenant of the Land, or by *Reſcous* with force: this is not a diſſeiſin with force.

If

If the Lord improves the waſte with force, not leaving ſufficient Common for the Commoners: this is a diſſeiſin with force within the compaſs of the Statute.

If a leſſee for years with the remainder over for life be ouſted with force: this is not a diſſeiſin with force by the Statute.

If the diſſeiſor, after he hath continued in quiet poſſeſſion for three yeers, detaineth with force; this is not any detaining with force by the Statute.

If two joynt-Tenants are diſſeiſed with force, they both together are the parties grieved by this Statute, and not apart; but if one of them releaſeth to the other, or dieth, then the other by himſelf is a party grived.

If the husband and wife ſeiſed of Lands in right of the wife, are diſſeiſed with force, and the husband dieth, the wife ſhall be a party grieved by this Statute.

If a man be ſeiſed in right of his wife, and diſſeiſed with force, and after they have iſſue the wife dieth, the husband is a party grieved by this Statute.

If a man makes a leaſe for life to his eldeſt ſon, and is diſſeiſed with force, and

dieth, the ſon is the party grieved.

Land deſcends to two daughters, one enters, and a ſtranger ouſteth her by force, ſhe may have an aſſize by this Statute: the party grieved may have an aſſize of *novel diſſeiſin*, or an action of treſpaſs upon the Statute, reciting the Statute, and ſhall recover treble damages.

Alſo in a Writ of Attainder brought againſt the Jurors if they finde for the Defendant by falſe Oath, the party ſhall recover treble damages.

And theſe offences, I hope all Friends to peace and truth will avoid, and hereby finde directions to puniſh the *nocent*.

An

An Abſtract of ſeveral penal Statutes made and enacted for the good of the Subjects, but are every day ſhamefully broken: therefore I have, according to promiſe, inſerted the ſeveral penalties by them enjoyned according to the nature of the offence, to terrifie Offendors for fear of the puniſhment, (*though they have ſo many partakers, that it will not reſtrain them*) and to excite others effectually to proſecute them for the love of *Virtue*.

WE will not here actum agere, *not uſe ſo much* Tautology, *as to inſert what we have already ſpoken of; but only put you in minde, That we have before in the Charge of the* Court-Leet, *ſufficiently diſſected the Alehouſes, perhaps more then my Hoſtes will thank me*

for; and given a hint at the Gaming-Houſes too, becauſe the Alehouſes and they are inſeparable Inmates, yet nevertheleſs, they are not ſo fully laid down as I finde the Statute mentions: wherefore therewith I'll firſt begin.

Of Gaming-houſes, and Players at Games.

No perſon whatſoever ſhall keep, hold, ſuffer or maintain in his Houſe, Yard, Orchard or Backſide, any place of unlawful Games; nor ſhall not permit nor ſuffer any perſons to play in his Houſe, Yard, Backſide or Orchard, at Tables, Cards, Dice, Coits, Loggats, Claſh, Bowls, Slide-thrift or Shove-groat, (called now Shuffle-board and Boards-end) or at any other unlawful Game, invented or to be invented, on pain to forfeit for every day he ſhall uſe or ſuffer the ſame, 40 *s.* and all ſuch perſons as ſhall uſe or haunt any ſuch place of unlawful Games, or play thereat, forfeits 6 *s.* 8 *d.* for every ſuch Offence.

No Artificer or his Journey-man, no Husband-man, Apprentice, Labourer, Ser-

Servant at Husbandry; Marriner, Fiſher-man, Water-man or Serving-man, ſhall play at any ſuch unlawful Game or Games out of *Chriſt-mas*; nor then, out of their Maſter's Houſe, or preſence; on pain of 20 *s.* for every default 20 *s.* All which Forfeitures are to be divided between the King and any perſon that will ſue for the ſame in any Court of Record; laying his Action in the ſame County where the Offence is committed, and proſecuting the ſame within a year, 33 *H.* 8, 9.

If Informers would look diligently after theſe Offences, they would do good ſervice to the Commonwealth, and ſave many Families, Wives and Children from Deſtruction, and Gameſters from the Gallows, where they uſually throw their laſt Caſt.

All Licences to keep Houſes or places of unlawful Games, ſhall be void, *Stat.* 2, 3. *p. m.* 9.

Per-

Perjury.

Whoſever ſubborns a Witneſs to give falſe Teſtimony in any Court of Record, forfeits 40 *l.* and upon conviction, if he hath not wherewith to ſatisfie the penalty, he ſhall ſuffer ſix months impriſonment, ſtand in the Pillory an hour, and be diſabled for a Witneſs for ever after, unleſs the judgement given againſt him be reverſed by attaint or error.

And he that doth wilfully *forſwear* himſelf, that is, commit *wilful perjury*, ſhall forfeit 20 *l.* ſix months impriſonment, and be diſabled for a Witneſs, unleſs the judgment be reverſed; and if he cannot pay the Fyne, he is to ſtand in the Pillory, and have both his ears nailed, *Stat.* 5. *El.* 9.

By *forſwearing* I mean giving falſe evidence upon Oath before a Judge of Record; and this is *Perjury*: for if a man bring an Action on the Caſe for ſcandalous words againſt another, for ſaying of the Plaintiff he forſwore himſelf; it will not bear an Action, unleſs he ſay he forſwore himſelf

ſelf in a Court, which is a Court of Record being called there for a Witneſs.

And here by the way I muſt needs mention a Caſe which is odious.

T. S. of *W.* ſubborns *H. S.* his ſon to give falſe evidence in the Court of Record holden for the Honor and Caſtle of *Windſor*; in a Cauſe there depending between *F. W. &c.* he had done the ſame before at at *Abingdon*, and hath ſince therewith *W. F.* againſt the ſame *F. W.* upon an Indictment: *H. S* commits wilful Perjury at *Windſor*, is found thereof guilty by Indictment at *W.* (where there was no Seſſions kept a long time before) nor (becauſe of their kinde uſage to the Country, ſince) at the Seſſions: the buſineſs was ſo handled by *Tom Sneaks*, and his Friends, that it was alledged that *Windſor*-Court was not a Court of Record, and unleſs the proſecutor preſently prove it, (which they knew upon an inſtant he could not) the Defendant ſhould be acquitted; and ſo he was thereupon. Rare Juſtice!

I could name two or three more admirable Preſidents between theſe parties: and ſome

ſome acted in the Town-Court of *Oke-kingham*, *inter Sims* and *Magick*; but I'll reſerve them till another time for another intended Subject.

The Forfeitures in Caſe of *Perjury* are to be reovered in any Court of Record by Action of Debt or Information, one half to the King, the other to the proſecutor; and may be laid in any County, though the Offence was not committed there.

This Act ought to be proclaimed at every Aſſize, and great pity it is in my opinion, that there is no greater puniſhment ordained for *Perjury*.

It is in all reſpects equivalent to murder, and why ſhould not the committers thereof, receive the ſame puniſhment as murderers convicted do? or at leaſt ſhould do.

He that will forſwear himſelf, as too many now a dayes make no bones of it, oftentimes doth, and upon any ſpleen, malice, or revenge, will take away the eſtate and life of any one.

Did not *T. S.* at *Oke-kingham* ſwear againſt *F. W.* at *Abingdon*, that he had ſtollen ſix cocks of Hay from him worth ſix ſhillings, and brought his ſon and another

ther to do the ſame? when there was not a Hay-cock in the Ground: but the ſaid *F. W.* was deputed lawfully to gather Tyths which the other very well knew, and did take but two or three little Graſs-cocks, valued at three pence, which was his right: yet the other endeavoured to hang him for it, if his *Perjury* had not appeared to manifeſtly, as well as it hath done ſince; as I ſhall ſhortly in another intended Subject fully demonſtrate, and anatomize the practice in the Court of *Oke-kingham* beſides. But I'll forbear them now, becauſe the ſcope of this is ſomething elſe; to which I'll proceed.

Foreſtallers, Regraders and Ingroſſors.

If any perſon ſhall buy or contract for any Merchandize, Victuals, or any other thing whatſoever, in the way, by Land or Water, before it be brought unto any City, Fair or Market where it ought to be ſold; or ſhall cauſe the ſame to be ſo bought; or ſhall diſſwade the people from bringing any ſuch commodity to any ſuch place; or, being brought, ſhall perſwade them to inhance

hance the price thereof, ſhall be adjudged a foreſtaller, *Stat.* 5. *Ed.* 6. 14.

A Regrador is he that buyes any Grain, Wine, Fiſh, Butter, Cheeſe, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geeſe, Capons, Hens, Chickens, Pidgeons, Conies, or other dead Victual whatſoever, brought to a Fair or Market to be ſold there, and to ſell the ſame again in the ſame Fair or Market, or in ſome other Fair or Market within four miles.

An Ingroſſer is he that gets into his hands by buying, contract or promiſe, (other then by device or grant) any Corn growing in tye Fields, or other Grain, Butter, Cheeſe, Fiſh, or other dead Victuals whatſoever with intent to ſell it again. The Offendor in any of theſe caſes, ſhall forfeit for the firſt offence, the value of the Goods ſo bought, and two months impriſonment without Bayl: for the ſecond offence, the doublevalue and ſix months impriſonment without Bayl: and for the third, ſhall forfeit all his Goods, be ſet on the Pillory, and be impriſoned at the King's pleaſure.

He that buyeth Grain in any Market for change of Seed, ſhall bring as much hither the ſame day and ſell it, according to the preſent

preſent price of Grain, on pain to forfeit double the value of the Grain ſo bought.

He that buyes any Cattel, and ſells the ſame alive within five weeks, ſhall forfeit the double value thereof, during which time he ought to keep them upon Paſture, either had by grant or preſcription. Theſe Offences ſhall be divided between the King and the proſecutor.

Of Wine without Licenſe.

No perſon whatſoever not lawfully authorized by Licenſe, ſhall ſell or utter any Wine by retail to be ſpent in his or their manſion-houſe, or in any other place in their tenure by any colour, craft, or engine on pain of 10 *l.* to be divided between the King and the Proſecutor: which ſute ſhall be comenced within a year after the offence committed, *Stat. 7. E. 6. 5.*

Underſtand, no colour, craft nor engine ſhall evade the penalty of this Statute: it is not the pretence of the keeping a free Vintner, as they call it, nor taking their Wine of a Vintner, or other ſuch pretences may ſerve their turn.

Of importing Silk or Ribands, &c.

None shall bring or cause to be brought into *England*, any Silk wrought (by it self or other stuff) out of *England* in Riband, Laces, Girdles, Corses, Cawls, Tissues, or points, on pain to forfeit the same or the value thereof: to be divided between the King and any one that shall seize or sue for the same, *Stat.* 19. *H.* 7. 21.

A general complaint is now made by most, nay, all Tradesmen that work in Silk of the great damage to the English *Manufacture* in Silk, by reason of the Ribands and wrought Silk brought into this Nation, by the French and Dutch and those Forrain Nations, to the great hindrance and decay of our English Trade: for prevention of which, I have the rather quoted this Statute to discover a remedy for my grieved Country-men in this behalf, by which they may right themselves if they look after it.

VVood.

Wood.

There are such wastes and devastations of Wood and Timber and the growth thereof, in this Nation, as predicates a sad event and inevitable calamity ensuing, if it be not timely prevented, (though I am half afraid, it is too late already, but hope better) and do hereby invite all lovers of their countries good, effectually to put in practice all such Laws and Statutes as are ordained for the preservation of Wood and Timber, as here they follow:

Statute 35 *H.* 8. 17. There shall be left unfelled in every acre of Copice or Underwood, which shall be felled at twenty four yeers growth, or under, twelve Standils of Oak; or if there be not so many Oaks, the number shall be made up of Elm, Ash, Asp, or Beech; which Standils shall not be felled, until they bear ten inches square within three foot of the ground, on pain that the owner of the Wood shall forfeit for every Standil not so left, 3 *s.* 4 *d.* and for every Standil left, and afterwards cut down before he come to that bigness as aforesaid, 3 *s.* 4 *d.* the forfeitures to be divided be-

tween the King and the Proſecutor.

None ſhall convert into tillage or paſture any Underwood or Copice, containing two acres or above, and being two furlongs diſtant from the houſe of the Owner thereof, or from the houſe whereunto ſuch wood doth belong, on pain to forfeit 40 *s.* for every acre ſo converted: *it were well if this were carefully looked after.*

But the owner of any ſuch Copice or Underwood may fell Standils for his own uſe for building or repairing, *&c.* notwithſtanding this Act.

The Lord of the Soyl ſhall not fell or cut down any Wood or Copice, wherein others have Common (except it be to his own uſe) before he and the Commoners ſhall agree in the ſetting out a fourth part thereof, to be imployed to the uſe of the Lord; and in caſe they cannot agree thereupon, two Juſtices of Peace appointed by the Seſſions ſhall have power to call before them twelve of the Commoners and Inhabitants, and with the conſent of the Lord and them, ſhall ſet out a fourth part thereof to be incloſed by the Lord within one month after; and then to be felled at his pleaſure, being ſubject to the ſame Laws and

and penalties upon breach thereof, as other Copices before mentioned are: and if any Beaſt be ſuffered to come into ſuch fourth part within ſeven yeers after it is felled, the Owner of ſuch Cattel ſhall forfeit for every ſuch Beaſt, 4*d.* and if the Owner of any ſuch Copice or Wood, cut down any Trees or Underwoods there contrary to the form aforeſaid, he ſhall forfeit for every tree ſo cut down 6*s.* 8*d.* All theſe forfeitures are to be equally divided between the King and any one that will ſue for the ſame in any Court of Record *&c.*

Upholſters.

None ſhall make to ſell, or offer to be ſold, any Feather-Bed, Bolſter, or Pillow; except the ſame be ſtuffed with dry-pulled Feathers, or clean Down only, without mingling of ſcalded Feathers, ſenne-Down, Thiſtle-Down, Sand, Lyme, Gravel, or other unlawful corrupt ſtuff: on pain to forfeit the ſame ſo offered to be ſold, or the value thereof.

Likewiſe, none ſhall make to ſell or offer to be ſold any Quilt, Mattreſs, or Cuſhions ſtuffed with any mingled ſtuff, other

then Feathers, Wooll, or Flocks alone; in pain to forfeit the same so put to sale, or the value. All which forfeitures are equally to be divided between the King and any person that will sue for the same.

Brokers, Usurers and Extortioners.

Three Brids of a Feather, not a pin to chuse: these are destructive Locusts, that live by the sweat of other mens brows: the most wicked of all people; abhorrent, and against the Laws of God and Nature: for *usuræ legitimæ sunt illicitæ*: nay, *nulla usura ligitima est*: those usuries which our politick Laws allow, though they may be said to be lawful usuries, and the most legitimate *quoad nostram legem*, yet they are illegitimate, and all unlawful *secundum legem Dei.*

Those most wretched people the Jews, having received from God a most express Command, not to oppress their brethren with Usury, they practised no vice more, and have spread their grangrene throughout almost all Nations whither Gods judgments hath scattered them; but especially, to the great shame of Christians, have in this

this respect found most imitation in *England*. And notwithstanding the prudency and vigilant care of our Supreme Governors to cut off the *Hydrean* heads of these Serpents, they carry their poyson so subtilly as to destroy whole families under the pretended coverture of innocency in the eye of the Law: but yet certainly, their skins may be pulled off, and their wickedness appear, if duly looked after. I shall therefore first begin with the Brokers, who lend money upon pledge or pawn, as they call it: that is, seldom exceeding the quarter, or a little more, of the value of the thing so laid in pledge, shall be the sum of money so lent: and under this notion, the Brokers-shops are the harbors and receptacles of thieves; for they receive like hell, all that comes, not caring whether the bringers be the right Owners or not, so there appear a visage of gain: and though the right Owner finde his own Goods in their possession, yet they under pretence of the alteration of property, will not deliver them. But let them know, That the sale of Goods wrongfully gotten, to any Broker in *London*, *Westminster*, *Southwark*, or within two miles of *London*, shall not alter the property thereof.

And

And if any Broker, having received any ſuch Goods, ſhall not upon the requeſt of the true Owner, truly diſcover them, how and when he came by them, and to whom they are conveyed, he ſhall forfeit the double value thereof to the Owner of the ſaid Goods: *Stat.* 1 *Jac.* 21.

But this is not all: for by an Act of the late Seſſions of Parliament holden at *Weſtminſter*, in the County of *Midd. Anno* 1650. it is enacted and ordained, That no perſon or perſons, ſhall directly or indirectly, or by any craft or colour whatſoever, take above 6 *l.* for the loane or intereſt of 100 *l.* for a yeer, or over; and above that rate for a greater or a leſſer ſum, ſhall forfeit the treble value of the money or goods ſo lent, to be divided between the Protector and any party that will ſue for the ſame in any Court of Record, by Indictment, Action of Debt, Bill Plaint or Information. And if any Scrivener or Broker, ſhall take any more then 5 *s.* for the procuring of 100 *l.* for a year, or according to that rate for a greater or leſſer ſum, ſhall forfeit 20 *l.* and the Pillory.

Nevertheleſs, ſo cunningly do theſe Brokers and Uſurers carry their deſigns, that *vim & modus*

modo they take at firſt peny after the rate of 30 *l. per annum, per cent.* and as they handle the buſineſs, they make it amount to above 60 *l. per annum, per cent.* beſides the Trade of thoſe that let money at 2 *s.* in the pound, deducted for twenty weeks, and have their money alſo paid weekly.

Well therefore were it to be wiſhed, and is much to be deſired, that theſe offences were duely proſecuted, and this enormous vice corrected, ſo much conducing to the good of the Commonwealth, and well-being of all people in general who muſt earn their bread before they eat it.

Several other kindes of Extortion there are, eſpecially in Bayliffs, under-Sheriffs, Goalers, Sergeants, and ſuch-like, which I ſhall omit here, and leave them till another opportunity, becauſe their corruption will fill up whole volumes: unleſs I be prevented by their being reduced by the diligent hand of Juſtice, as I hope ſhortly they will.

FINIS.